Saving for Retirement

Proposed Regulations and Explanatory Notes

Department of Finance Canada
Ministère des Finances Canada

Draft Amendments to the Income Tax Regulations Relating to Saving for Retirement

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1. Paragraph (*i*) of the definition "remuneration" in subsection 100(1) of the *Income Tax Regulations* is revoked and the following substituted therefor:

"(*i*) a payment made during the lifetime of an annuitant referred to in subparagraph 146(1)(*a*)(i) of the Act out of or under a registered retirement savings plan of that annuitant, other than

(i) a periodic annuity payment, or

(ii) a payment made by a person who has reasonable grounds to believe that the payment may be deducted under subsection 146(8.2) of the Act in computing the income of any taxpayer,"

2. Paragraph 103(6)(*c*) of the said Regulations is revoked and the following substituted therefor:

"(*c*) a payment made during the lifetime of an annuitant referred to in subparagraph 146(1)(*a*)(i) of the Act out of or under a registered retirement savings plan of that annuitant, other than

(i) a periodic annuity payment, or

(ii) a payment made by a person who has reasonable grounds to believe that the payment may be deducted under subsection 146(8.2) of the Act in computing the income of any taxpayer,"

3. (1) Subsection 214(5) of the said Regulations is revoked and the following substituted therefor:

"(5) Where in a taxation year a transfer or payment of funds is made from a registered retirement savings plan under which the taxpayer is the annuitant to another registered retirement savings plan under which the taxpayer's spouse or former spouse is the annuitant and subsection 146(16) of the Act applies to the payment or transfer, the issuer of each such plan and each annuitant shall jointly make an information return in prescribed form."

(2) Subsection 214(7) of the said Regulations is revoked and the following substituted therefor:

"(7) In this section,

"annuitant" has the meaning assigned by paragraph 146(1)(*a*) of the Act;

"issuer" has the meaning assigned by paragraph 146(1)(*c*.1) of the Act;

"spouse" has the meaning assigned by subsection 146(1.1) of the Act and includes a party to a voidable or void marriage."

4. All that portion of section 1501 of the said Regulations preceding paragraph (*a*) thereof is repealed and the following substituted therefor:

"1501. For the purposes of the definition "deferred profit sharing plan" in subsection 147(1) of the Act, an application for registration of a plan shall be made by forwarding by registered mail to the Deputy Minister of National Revenue for Taxation at Ottawa the following documents:"

5. Part XXVII of the said Regulations is revoked.

6. Part LXVIII of the said Regulations is amended by adding thereto the following section:

"6802. For the purpose of paragraph (*n*) of the definition "retirement compensation arrangement" in subsection 248(1) of the Act, a prescribed plan or arrangement is

(*a*) the plan under the *Canada Pension Plan*;

(*b*) a provincial pension plan as defined in section 3 of the *Canada Pension Plan*;

(*c*) a plan under the *Unemployment Insurance Act*;

(*d*) a plan pursuant to an agreement in writing that is established for the purpose of deferring the salary or wages of a professional on-ice official for the official's services as such with the National Hockey League if, in the case of an official resident in Canada, the trust or other person who has custody and control of any funds, investments or other property under the plan is resident in Canada; or

(*e*) for a calendar year before 1991, a plan or arrangement (other than a plan or arrangement referred to in the definition "retirement compensation arrangement" in subsection 248(1) of the Act as an "athlete's plan" or a pension plan the registration of which under the Act has been revoked) any part of which would, but for this paragraph, be a retirement compensation arrangement in the year by reason of subsection 207.6(5) of the Act, where

(i) a certificate of exemption under subsection 212(14) of the Act has been issued in connection with the plan or arrangement,

(ii) each employer who has made a contribution under the plan or arrangement in the year is

(A) a non-resident corporation throughout the year, or

(B) an organization that is not operated for the purpose of profit and whose assets are situated primarily outside Canada throughout the year,

(iii) if an employer described in clause (ii)(A) has made a contribution under the plan or arrangement in the year, no individual entitled (either absolutely or contingently) to benefits under the plan or arrangement is

(A) a member of a registered pension plan, or

(B) a beneficiary under a deferred profit sharing plan

to which an employer referred to in subparagraph (ii) or a person not dealing at arm's length with such an employer has made, or is required to make, contributions in relation to the year, and

(iv) contributions in the year under the plan or arrangement for the benefit of individuals resident in Canada are reasonable in relation to contributions under the plan or arrangement for the benefit of non-resident individuals."

7. The said Regulations are further amended by adding thereto the following Parts:

"PART LXXXIII
PENSION ADJUSTMENTS AND PAST SERVICE PENSION ADJUSTMENTS

INTERPRETATION

8300.(1) In this Part,

"certifiable past service event" in respect of an individual means a past service event that is required, by reason of subsection 147.1(10) of the Act, to be disregarded, in whole or in part, in determining the benefits to be paid under a registered pension plan in respect of the individual until a certification of the Minister in respect of the event has been obtained; (*fait à attester*)

"complete period of reduced services" of an individual means a period of reduced services of the individual that is not part of such a period that is longer; (*période complète de services réduits*)

"excluded contribution" to a registered pension plan means an amount paid to the plan that is transferred to the plan in accordance with any of subsections 146(16), 147(19) and 147.3(1) to (7) of the Act; (*cotisation exclue*);

"flat benefit provision" of a pension plan means a defined benefit provision of the plan under which the amount of lifetime retirement benefits provided to each member is based on the aggregate of all amounts each of which is the product of a fixed rate and either the duration of service of the member or the number of units of output of the member, and, for the purposes of this definition, where

(*a*) the amount of lifetime retirement benefits provided under a defined benefit provision to each member is subject to a limit based on the remuneration received by the member, and

(*b*) the limit may reasonably be considered to be included to ensure that the amount of lifetime retirement benefits provided to each member does not exceed the maximum amount of such benefits that may be provided by a registered pension plan,

the limit shall be disregarded for the purpose of determining whether the provision is a flat benefit provision; (*disposition à prestations forfaitaires*) "past service event" means any transaction, event or circumstance that occurs after 1989 and as a consequence of which

(*a*) retirement benefits become provided to an individual under a defined benefit provision of a pension plan in respect of a period before the time that the transaction, event or circumstance occurs,

(*b*) there is a change to the way in which retirement benefits provided to an individual under a defined benefit provision of a pension plan in respect of a period before the time that the transaction, event or circumstance occurs are determined, including a change that is applicable only in specified circumstances, or

(*c*) there is a change in the value of an indexing or other automatic adjustment that enters into the determination of the amount of an individual's retirement benefits under a defined benefit provision of a pension plan in respect of a period before the time that the value of the adjustment changes; (*fait lié aux services passés*)

"period of reduced services" of an individual means, in connection with a defined benefit or money purchase provision of a registered pension plan, a period that consists of one or more periods each of which is

(*a*) an eligible period of reduced pay or temporary absence of the individual with respect to an employer who participates under the provision, or

(*b*) a period of disability of the individual; (*période de services réduits*)

"refund benefit" means

(*a*) in respect of an individual and a money purchase or defined benefit provision of a pension plan, a return of contributions made by the individual under the provision, and

(*b*) in respect of an individual and a deferred profit sharing plan, a return of contributions made by the individual to the plan, and includes any interest (computed at a rate not exceeding a reasonable rate) payable in respect of those contributions. (*prestation de remboursement*)

(2) The definition "past service event" in subsection (1) is applicable for the purposes of subsection 147.1(1) of the Act.

(3) All words and expressions used in this Part that are defined in sections 147 or 147.1 of the Act or in Part LXXXV have the meanings assigned in those provisions unless a definition in this Part is applicable.

(4) For the purposes of this Part and the definition "employment" in subsection 248(1) of the Act as it applies for the purposes of this Part, an officer who receives remuneration for holding an office shall, for any period that the officer holds the office, be deemed to render services to, and to be in the service of, the person from whom the officer receives the remuneration.

(5) For the purposes of this Part, where an individual has received an interest in an annuity contract in full or partial satisfaction of the individual's entitlement to benefits under a defined benefit provision of a pension plan, any rights of the individual under the contract shall be deemed to be rights under the defined benefit provision.

(6) For the purposes of this Part and subsection 147.1(10) of the Act, and subject to subsection 8308(1), the following rules apply with respect to the determination of the benefits that are provided to an individual under a defined benefit provision of a pension plan at a particular time:

(*a*) where a term of the defined benefit provision, or an amendment to a term of the provision, is not applicable with respect to the individual before a specified date, the term shall be considered to have been added to the provision, or the amendment shall be considered to have been made to the term, on the specified date;

(*b*) where an alteration to the benefits provided to the individual is conditional on the requirements of subsection 147.1(10) of the Act being met, those requirements shall be assumed to have been met;

(*c*) benefits that will be reinstated if the individual returns to employment with an employer who participates in the plan shall be considered not to be provided until the individual returns to employment; and (*d*) where benefits under the provision depend on the individual's job category or other circumstances, the only benefits provided to the individual are the benefits relevant to the individual's circumstances at the particular time.

(7) For the purposes of subsections 8301(3) and (8), paragraph 8302(3)(*c*) and subsections 8302(5) and 8304(5), the benefits to which an individual is entitled at any time under a deferred profit sharing plan or pension plan shall be considered to include benefits to which the individual has only a contingent right because the conditions for the vesting of the benefits have not been satisfied.

PENSION ADJUSTMENT

Pension Adjustment in Respect of Employer

8301.(1) For the purposes of subsection 248(1) of the Act, "pension adjustment" of an individual for a calendar year in respect of an employer means, subject to paragraphs 8308(4)(*d*) and (5)(*c*), the aggregate of all amounts each of which is the individual's pension credit for the year in respect of the employer under a deferred profit sharing plan or under a benefit provision of a registered pension plan.

Pension Credit - Deferred Profit Sharing Plan

(2) For the purposes of subsection (1) and Part LXXXV and subsection 147(5.1) of the Act, and subject to subsections (3) and 8304(2), an individual's pension credit for a calendar year in respect of an employer under a deferred profit sharing plan is the aggregate of all amounts each of which is

(*a*) a contribution made to the plan in the year by the employer in respect of the individual, or

(*b*) such portion of an amount allocated in the year to the individual as is attributable to forfeited amounts under the plan and earnings of the plan in respect thereof, except to the extent that such portion is

(i) included in determining the individual's pension credit for the year in respect of any other employer who participates in the plan,

(ii) paid to the individual in the year, or

(iii) where the year is 1990, attributable to amounts forfeited before 1990 or earnings of the plan in respect thereof,

except that, where the year is before 1990, the individual's pension credit is nil.

Non-Vested Termination from DPSP

(3) For the purposes of subsection (1) and Part LXXXV and subsection 147(5.1) of the Act, where

(*a*) an individual ceased in a calendar year after 1989 to be employed by an employer who participated in a deferred profit sharing plan for the benefit of the individual,

(*b*) as a consequence of the termination of employment, the individual ceased in the year to have any rights to benefits (other than a right to a refund benefit) under the plan,

(*c*) the individual was not entitled to benefits under the plan at the end of the year, or was entitled only to a refund benefit, and

(*d*) no benefit has been paid under the plan in respect of the individual, other than a refund benefit,

the individual's pension credit under the plan for the year in respect of the employer is nil.

Pension Credit - Money Purchase Provision

(4) For the purposes of subsection (1) and Part LXXXV and subsection 147.1(9) of the Act, and subject to subsections (8) and 8304(2), an individual's pension credit for a calendar year in respect of an employer under a money purchase provision of a registered pension plan is the aggregate of all amounts each of which is

(*a*) a contribution (other than an additional voluntary contribution made by the individual in 1990 or an excluded contribution) made under the provision in the year by

(i) the individual, except to the extent that the contribution was not made in connection with the individual's employment with the employer and is included in determining the individual's pension credit for the year in respect of any other employer who participates in the plan, or

(ii) the employer in respect of the individual, or

(*b*) such portion of an amount allocated in the year to the individual as is attributable to

(i) forfeited amounts under the provision or earnings of the plan in respect thereof, or

(ii) a surplus under the provision,

except to the extent that such portion is

(iii) included in determining the individual's pension credit for the year in respect of any other employer who participates in the plan,

(iv) paid to the individual in the year, or

(v) where the year is 1990, attributable to amounts forfeited before 1990 or earnings of the plan in respect thereof,

except that the individual's pension credit is nil where the year is before 1990, and, for the purposes of this subsection, the plan administrator shall determine the portion of a contribution made by an individual or an amount allocated to the individual that is to be included in determining the individual's pension credit in respect of each employer.

Pension Credit - Defined Benefit Provision of a Specified Multi-Employer Plan

(5) For the purposes of this Part and Part LXXXV and subsection 147.1(9) of the Act, an individual's pension credit for a calendar year in respect of an employer under a defined benefit provision of a registered pension plan that is, in the year, a specified multi-employer plan is the aggregate of

(*a*) the aggregate of all amounts each of which is a contribution (other than an excluded contribution) made under the provision by the individual

(i) in the year, in respect of

(A) the year, or

(*b*) a plan year ending in the year (other than in respect of such portion of a plan year as is before 1990), or

(ii) in January of the year (other than in January, 1990) in respect of the immediately preceding calendar year,

except to the extent that the contribution was not made in connection with the individual's employment with the employer and is included in determining the individual's pension credit for the year in respect of any other employer who participates in the plan,

(*b*) the aggregate of all amounts each of which is a contribution made in the year by the employer in respect of the provision, to the extent that the contribution may reasonably be considered to be determined by reference to the number of hours worked by the individual or some other measure that is specific to the individual, and

(*c*) the amount determined by the formula

$$\frac{A}{B} \times (C - B)$$

where

A is the amount determined under paragraph (*b*) for the purpose of computing the individual's pension credit,

B is the aggregate of all amounts each of which is the amount determined under paragraph (*b*) for the purpose of computing the pension credit of an individual for the year in respect of the employer under the provision, and

C is the aggregate of all amounts each of which is a contribution made in the year by the employer in respect of the provision,

except that, where the year is before 1990, the individual's pension credit is nil.

Pension Credit - Defined Benefit Provision

(6) For the purposes of this Part and Part LXXXV and subsection 147.1(9) of the Act, and subject to subsections (7), (8) and (10) and sections 8304 and 8308, an individual's pension credit for a calendar year in respect of an employer under a defined benefit provision of a particular registered pension plan (other than a plan that is, in the year, a specified multi-employer plan) is the amount, if any, by which

(*a*) 9 times the individual's benefit entitlement under the provision in respect of the employer and the year

exceeds

(*b*) the amount, if any, by which $1,000 exceeds the aggregate of all amounts each of which is an amount deducted under this paragraph for the purpose of computing the individual's pension credit for the year

(i) in respect of the employer under any other defined benefit provision of a registered pension plan,

(ii) in respect of any other employer (who, at any time in the year, does not deal at arm's length with the employer) under a defined benefit provision of a registered pension plan, or

(iii) in respect of any other employer under a defined benefit provision of the particular plan,

except that, where the year is before 1990, the individual's pension credit is nil.

Pension Credit - Defined Benefit Provision of a Multi-Employer Plan

(7) Where a registered pension plan is a multi-employer plan (other than a specified multi-employer plan) in a calendar year, the following rules apply, except to the extent that the Minister has waived in writing their application in respect of the plan, for the purpose of determining the pension credits of an individual for the year under a defined benefit provision of the plan:

(*a*) where the individual is employed in the year by more than one participating employer, the pension credit of the individual for the year under the provision in respect of a particular employer shall be determined as if the individual were not employed by any other participating employer;

(*b*) paragraph (6)(*b*) shall be read as follows:

"(*b*) the amount determined by the formula

$$\$1{,}000 \times A - B$$

where

A is

(i) where the member rendered services on a full-time basis throughout the year to the employer, one, and

(ii) in any other case, the fraction (not greater than one) that measures the services that, for the purpose of determining the member's lifetime retirement benefits under the provision, the member is treated as having rendered in the year to the employer expressed as a proportion of the services that would have been rendered by the member in the year to the employer had the member rendered services to the employer on a full-time basis throughout the year, and

B is the aggregate of all amounts each of which is an amount deducted under this paragraph for the purpose of computing the individual's pension credit for the year in respect of the employer under any other defined benefit provision of the plan,";

(*c*) where a period in the year is a period of reduced services of the individual, the pension credit of the individual for the year under the provision in respect of each participating employer shall be determined as the aggregate of

(i) the pension credit that would be determined if no benefits (other than benefits attributable to services rendered by the individual) had accrued to the individual in respect of periods of reduced services, and

(ii) the pension credit that would be determined if the only benefits that had accrued to the individual were benefits in respect of periods of reduced services, other than benefits attributable to services rendered by the individual during such periods; and

(*d*) subsection (10) shall not apply.

Non-Vested Termination from RPP

(8) For the purposes of this Part and Part LXXXV and subsection 147.1(9) of the Act, and subject to subsection (9), where

(*a*) an individual ceased in a calendar year after 1989 to be employed by an employer who participated in a registered pension plan for the benefit of the individual,

(*b*) as a consequence of the termination of employment, the individual ceased in the year to have any rights to benefits (other than a right to a refund benefit) under a money purchase or defined benefit provision of the plan,

(*c*) the individual was not entitled to benefits under the provision at the end of the year, or was entitled only to a refund benefit, and

(*d*) no benefit has been paid under the provision in respect of the individual, other than a refund benefit,

the individual's pension credit under the provision for the year in respect of the employer is

(*e*) where the provision is a money purchase provision, the aggregate of all amounts each of which is a contribution (other than an additional voluntary contribution made by the individual in 1990 or an excluded contribution) made under the provision in the year by the individual, except to the extent that the contribution was not made in connection with the individual's employment with the employer and is included in determining the individual's pension credit for the year in respect of any other employer who participates in the plan, and

(*f*) where the provision is a defined benefit provision, the lesser of

(i) the pension credit that would be determined if this subsection were not applicable, and

(ii) the aggregate of all amounts each of which is a contribution (other than an excluded contribution) made under the provision by the individual in, and in respect of, the year, except to the extent that the contribution was not made in connection with the individual's employment with the employer and is included in determining the individual's pension credit for the year in respect of any other employer who participates in the plan.

Multi-Employer Plans

(9) Subsection (8) is not applicable with respect to a registered pension plan that is a multi-employer plan in a calendar year except where

(*a*) the plan is not a specified multi-employer plan in the year;

(*b*) if the plan contains a defined benefit provision, the Minister has waived in writing the application of paragraph (7)(*b*) in respect of the plan for the year; and

(*c*) the Minister has approved in writing the application of subsection (8) in respect of the plan for the year.

Transition Rule: Money Purchase Offsets

(10) Where,

(*a*) throughout the period commencing January 1, 1981 and ending December 31 of a particular calendar year after 1989 and before 2000 there has been subtracted, in determining the amount of lifetime retirement benefits under a defined benefit provision of a registered pension plan (other than a specified multi-employer plan), the amount of lifetime retirement benefits under a money purchase provision of the plan or of another registered pension plan,

(*b*) lifetime retirement benefits under the defined benefit provision are determined, at the end of the particular year, in substantially the same manner as they were determined at the end of 1989, and (*c*) for each individual and each calendar year before 1990, the amount of employer contributions made under the money purchase provision for the year in respect of the individual did not exceed $3,500,

the pension credit of an individual for the particular year in respect of an employer under the defined benefit provision is equal to the amount, if any, by which

(*d*) the amount that would, but for this subsection, be the individual's pension credit

exceeds

(*e*) the lesser of

(i) $2,500, and

(ii) the amount determined by the formula

$$\frac{1}{10} \times (A - (B \times C))$$

where

A is the balance in the individual's account under the money purchase provision at the end of 1989,

B is the aggregate of all amounts each of which is the duration (measured in years, including any fraction of a year) of a period ending before 1990 that is pensionable service of the individual under the defined benefit provision and that is not part of a longer period ending before 1990 that is pensionable service of the individual under the provision, and

C is the amount that would be the individual's pension credit for 1989 in respect of the employer under the defined benefit provision if subsection (6) were read without reference to all that portion following subparagraph (*b*)(iii) thereof.

Timing of Contributions

(11) Subject to paragraph (12)(*b*), for the purposes of this Part, a contribution made by an employer in the first two months of a calendar year to a deferred profit sharing plan, in respect of a money purchase provision of a registered pension plan, or in respect of a defined benefit provision of a registered pension plan that is, in the immediately preceding calendar year, a specified multi-employer plan shall be deemed to have been made by the employer at the end of the immediately preceding calendar year and not to have been made in the year, to the extent that the contribution can reasonably be considered to relate to a preceding calendar year.

Indirect Contributions

(12) For the purposes of this Part and Part LXXXIV, where a trade union or association of employers (in this subsection and subsections (13) and (14) referred to as the "contributing entity") makes contributions to a registered pension plan,

(*a*) such portion of a payment made to the contributing entity by an employer or an individual as may reasonably be considered to relate to the plan (determined in accordance with subsection (13) where that subsection is applicable) shall be deemed to be a contribution made to the plan by the employer or individual, as the case may be, at the time the payment was made to the contributing entity; and

(*b*) subsection (11) shall not apply with respect to a contribution deemed by paragraph (*a*) to have been made to the plan.

Apportionment of Payments

(13) For the purposes of subsection (12), where employers or individuals make payments in a calendar year to a contributing entity to enable the contributing entity to make contributions to a registered pension plan and the payments are not made solely for the purpose of being contributed to the plan, the contributing entity shall

(*a*) determine, in a manner that is reasonable in the circumstances, the portion of each payment that relates to the plan;

(*b*) make the determination in such a manner that all contributions made by the contributing entity to the plan, other than contributions made by the contributing entity as an employer or former employer of members of the plan, are considered to be funded by payments made to the contributing entity by employers or individuals;

(*c*) in the case of payments remitted to the contributing entity by an employer, notify the employer in writing, by January 31 of the immediately following calendar year, of the portion, or of the method for determining the portion, of each such payment that relates to the plan; and

(*d*) in the case of payments remitted to the contributing entity by an individual, notify the administrator of the plan in writing, by January 31 of the immediately following calendar year, of the total amount of payments made in the year by the individual that relate to the plan.

Non-Compliance by Contributing Entity

(14) Where a contributing entity does not comply with the requirements of subsection (13) as they apply with respect to payments made to the contributing entity in a calendar year to enable the contributing entity to make contributions to a registered pension plan,

(*a*) the plan becomes, on the first day of February of the immediately following calendar year, a revocable plan; and

(*b*) the Minister may make any determinations referred to in subsection (13) that the contributing entity failed to make, or failed to make in accordance with that subsection.

Transferred Amounts

(15) For the purposes of subparagraphs (2)(*b*)(ii) and (4)(*b*)(iv), an amount transferred for the benefit of an individual from a registered pension plan or deferred profit sharing plan directly to a registered pension plan, registered retirement savings plan or deferred profit sharing plan shall be deemed to be an amount that was not paid to the individual.

Subsequent Events

(16) Except as otherwise expressly provided in this Part, each pension credit of an individual for a calendar year shall be determined without

regard to transactions, events and circumstances that occur subsequent to the year.

BENEFIT ENTITLEMENT

Benefit Entitlement with Respect to Employer

8302.(1) For the purposes of subsection 8301(6), the benefit entitlement of an individual under a defined benefit provision of a registered pension plan in respect of a calendar year and an employer is the portion of the individual's benefit accrual under the provision in respect of the year that can reasonably be considered to be attributable to the individual's employment with the employer.

Benefit Accrual for Year

(2) For the purposes of subsection (1), and subject to subsections (6), (8) and (9), the benefit accrual of an individual under a defined benefit provision of a registered pension plan in respect of a calendar year is the amount computed in accordance with the following rules:

(*a*) determine the portion of the individual's normalized pension under the provision at the end of the year that can reasonably be considered to have accrued in respect of the year;

(*b*) where the year is 1990, 1991, 1992 or 1993, determine the lesser of the amount determined under paragraph (*a*) and

(i) for 1990, $1,277.78,

(ii) for 1991, $1,388.89,

(iii) for 1992, $1,500.00, and

(iv) for 1993, $1,611.11; and

(*c*) where, in determining the amount of lifetime retirement benefits payable to the individual under the provision, there is deducted from the amount of such benefits that would otherwise be payable the amount of lifetime retirement benefits payable to the individual under a money purchase provision of a registered pension plan or the amount of a lifetime annuity payable to the individual under a deferred profit sharing plan, reduce the amount determined under paragraph (*a*) (if the year is not 1990, 1991, 1992 or 1993) or paragraph (*b*) (if the year is 1990, 1991, 1992 or 1993) by 1/9 of the aggregate of all amounts each of which is the pension credit of the individual for the year under such a money purchase provision or deferred profit sharing plan.

Normalized Pension

(3) For the purposes of paragraph (2)(*a*), and subject to subsection (10), the normalized pension of an individual under a defined benefit provision of a registered pension plan at the end of a particular calendar year is the amount (expressed on an annualized basis) of lifetime retirement benefits that would be payable under the provision to the individual immediately after the end of the particular year if

(*a*) where lifetime retirement benefits have not commenced to be paid under the provision to the individual before the end of the particular year, they commenced to be paid immediately after the end of the year;

(*b*) where the individual had not attained 65 years of age before the time at which lifetime retirement benefits commenced to be paid (or are to be assumed by reason of paragraph (*a*) to have commenced to be paid) to the individual, the individual attained such age at that time;

(*c*) all benefits to which the individual is entitled under the provision were fully vested;

(*d*) where the amount of the individual's lifetime retirement benefits would otherwise be determined with a reduction computed by reference to the individual's age, duration of service or both, or with any other similar reduction, no such reduction were applied;

(*e*) where the amount of the individual's lifetime retirement benefits depends on the remuneration received by the individual in a calendar year (in this paragraph referred to as the "other year") other than the particular year, the remuneration received by the individual in the other year were determined in accordance with the following rules:

(i) where the individual was remunerated for both the particular year and the other year as a person who rendered services on a full-time basis throughout each of the years, the remuneration received by the individual in the other year were identical to the remuneration received by the individual in the particular year,

(ii) where subparagraph (i) is not applicable and the individual rendered services in the particular year, the remuneration received by the individual in the other year were the remuneration that the individual would have received in the other year (or a reasonable estimate thereof determined in a manner acceptable to the Minister) had the individual's rate of remuneration in the other year been the same as the individual's rate of remuneration in the particular year, and

(iii) where subparagraph (i) is not applicable and the individual did not render services in the particular year, the remuneration received by the individual in the other year were the remuneration that the individual would have received in the other year (or a reasonable estimate thereof determined in a manner acceptable to the Minister) had the individual's rate of remuneration in the other year been the amount that it is reasonable to consider would have been the individual's rate of remuneration in the particular year had the individual rendered services in the particular year;

(*f*) where the amount of the individual's lifetime retirement benefits depends on the individual's remuneration and all or a portion of the remuneration received by the individual in the particular year is treated under the provision as if it were remuneration received in a calendar year preceding the particular year for services rendered in that preceding year, that remuneration were remuneration for services rendered in the particular year;

(*g*) where the amount of the individual's lifetime retirement benefits depends on the individual's remuneration and the particular year is 1990, 1991, 1992 or 1993, benefits, to the extent that they can reasonably be considered to be in respect of the following range of annual remuneration, were excluded:

(i) where the particular year is 1990, the range from $63,889 to $86,111,

(ii) where the particular year is 1991, the range from $69,444 to $86,111,

(iii) where the particular year is 1992, the range from $75,000 to $86,111, and

(iv) where the particular year is 1993, the range from $80,556 to $86,111;

(*h*) where

(i) the amount of the individual's lifetime retirement benefits depends on the individual's remuneration,

(ii) the formula for determining the amount of the individual's lifetime retirement benefits includes an adjustment to the individual's remuneration for one or more calendar years,

(iii) the adjustment to the individual's remuneration for a year (in this paragraph referred to as the "specified year") consists of multiplying the individual's remuneration for the specified year by a factor that does not exceed the ratio of the average wage for the year in which the amount of the individual's lifetime retirement benefits is required to be determined to the average wage for the specified year (or a substantially similar measure of the change in the wage measure), and

(iv) the adjustment may reasonably be considered to be made to increase the individual's remuneration for the specified year to reflect, in whole or in part, increases in average wages and salaries from that year to the year in which the amount of the individual's lifetime retirement benefits is required to be determined,

the formula did not include the adjustment to the individual's remuneration for the specified year;

(*i*) where the amount of the individual's lifetime retirement benefits depends on the Year's Maximum Pensionable Earnings for calendar years other than the particular year, the Year's Maximum Pensionable Earnings for each such year were equal to the Year's Maximum Pensionable Earnings for the particular year;

(*j*) where the amount of the individual's lifetime retirement benefits depends on the actual amount of pension (in this paragraph referred to as the "statutory pension") payable to the individual under the *Canada Pension Plan* or a provincial plan (as defined in section 3 of that Act), the amount of statutory pension (expressed on an annualized basis) were equal to

(i) 25% of the lesser of the Year's Maximum Pensionable Earnings for the particular year and

(A) in the case of an individual who renders services throughout the particular year on a full-time basis to employers who participate in the plan, the aggregate of all amounts each of which is the individual's remuneration for the particular year from such an employer, and

(B) in any other case, the amount that it is reasonable to consider would be determined under clause (A) if the individual had rendered services throughout the particular year on a full-time basis to employers who participate in the plan, or

(ii) at the option of the plan administrator, any other amount determined in accordance with a reasonable method for estimating the statutory pension that can be expected to result in amounts substantially similar to amounts determined under subparagraph (i);

(*k*) where the amount of the individual's lifetime retirement benefits depends on the pension (in this paragraph referred to as the "statutory pension") payable to the individual under Part I of the *Old Age Security Act*, the amount of statutory pension payable for each calendar year were equal to the aggregate of all amounts each of which is the amount of the full monthly pension payable under Part I of the *Old Age Security Act* for a month in the particular year;

(*l*) except as otherwise expressly permitted in writing by the Minister, where the amount of the individual's lifetime retirement benefits depends on the amount of benefits (other than public pension benefits or similar benefits of a country other than Canada) payable under another benefit provision of a pension plan or under a deferred profit sharing plan, the amounts of the other benefits were such as to maximize the amount of the individual's lifetime retirement benefits;

(*m*) where the individual's lifetime retirement benefits would otherwise include benefits that the plan is required to provide by reason of a designated provision of the law of Canada or a province (within the meaning assigned by section 8513), or that the plan would be required to provide if each such provision were applicable to the plan in respect of all its members, such benefits were not included;

(*n*) where

(i) the individual attained 65 years of age before lifetime retirement benefits commenced to be paid (or are to be assumed by reason of paragraph (*a*) to have commenced to be paid) to the individual, and

(ii) an adjustment is made in determining the amount of those benefits for the purpose of offsetting, in whole or in part, the decrease in the value of lifetime retirement benefits that would otherwise result by reason of the deferral of those benefits after the individual attained 65 years of age,

that adjustment were not made, except to the extent that the adjustment exceeds the adjustment that would be made on an actuarially equivalent basis;

(*o*) except as otherwise provided by subsection (4), where the amount of the individual's lifetime retirement benefits depends on

(i) the form of benefits provided in respect of the individual under the provision (whether or not at the option of the individual), including

(A) the benefits to be provided after the death of the individual,

(B) the amount of retirement benefits, other than lifetime retirement benefits, provided to the individual, or

(C) the extent to which the lifetime retirement benefits will be adjusted to reflect changes in the cost of living, or

(ii) circumstances that are relevant in determining the form of benefits,

the form of benefits and the circumstances were such as to maximize the amount of the individual's lifetime retirement benefits on commencement of payment;

(*p*) where the amount of the individual's lifetime retirement benefits depends on whether the individual is totally and permanently disabled at the time at which retirement benefits commence to be paid to the individual, the individual were not so disabled at that time; and

(*q*) where lifetime retirement benefits have commenced to be paid under the provision to the individual before the end of the particular year, benefits payable as a consequence of cost-of-living adjustments described in paragraph 8303(5)(*k*) were disregarded.

Optional Forms

(4) Where

(*a*) the terms of a defined benefit provision of a registered pension plan permit a member to elect to receive additional lifetime retirement benefits in lieu of benefits that would, in the absence of the election, be payable after the death of the member if the member dies after retirement benefits under the provision commence to be paid to the member, and

(*b*) the elections available to the member include

(i) an election to receive additional lifetime retirement benefits, not exceeding additional benefits determined on an actuarially equivalent basis, in lieu of all or any portion of a guarantee that retirement benefits will be paid for a minimum period of ten years or less, or

(ii) an election to receive additional lifetime retirement benefits in lieu of retirement benefits that would otherwise be payable to a spouse or former spouse (in this subparagraph referred to as the "spouse") of the member for a period commencing after the death of the member and ending with the death of the spouse, where

(A) the election may be made only if the life expectancy of the spouse is significantly shorter than normal and has been so certified in writing by a medical doctor licensed to practise under the laws of a province of Canada or of the place where the spouse resides, and

(B) the additional benefits do not exceed additional benefits determined on an actuarially equivalent basis and on the assumption that the spouse is in normal health,

paragraph (3)(*o*) applies as if the elections described in paragraph (*b*) were not available to the member.

Termination of Entitlement to Benefits

(5) Where an individual ceased in a calendar year to be entitled to all or part of the lifetime retirement benefits provided to the individual under a defined benefit provision of a registered pension plan, the normalized pension of the individual under the provision at the end of the year shall be determined on the assumption that the individual continued to be entitled to those benefits immediately after the end of the year.

Defined Benefit Offset

(6) Where the amount of lifetime retirement benefits provided under a particular defined benefit provision of a registered pension plan to a member of the plan depends on the amount of lifetime retirement benefits provided to the member under one or more other defined benefit provisions of registered pension plans, the benefit accrual of the member under the particular provision in respect of a calendar year is the amount, if any, by which

(*a*) the amount that would, but for this subsection, be the benefit accrual of the member under the particular provision in respect of the year if the benefits provided under the other provisions were provided under the particular provision

exceeds

(*b*) the amount that would be the benefit accrual of the member under the other provisions in respect of the year if the other provisions were a single provision.

Offset of Specified Multi-Employer Plan Benefits

(7) Where the amount of an individual's lifetime retirement benefits under a defined benefit provision (in this subsection referred to as the "supplemental provision") of a registered pension plan depends on the

amount of benefits payable under a defined benefit provision of a specified multi-employer plan, the defined benefit provision of the specified multi-employer plan shall be deemed to be a money purchase provision for the purpose of determining the benefit accruals of the individual under the supplemental provision.

Transition Rule: Career Average Benefits

(8) Where

(*a*) on March 27, 1988 lifetime retirement benefits under a defined benefit provision of a pension plan were determined as the greater of benefits computed on a career average basis and benefits computed on a final or best average earnings basis,

(*b*) the method for determining lifetime retirement benefits under the provision has not been amended after March 27, 1988 and before the end of a particular calendar year, and

(*c*) it was reasonable to expect, on January 1, 1990, that the lifetime retirement benefits to be paid under the provision to at least 75% of the members of the plan on that date (other than members to whom benefits do not accrue under the provision after that date) will be determined on the final or best average earnings basis,

at the option of the plan administrator, benefit accruals under the provision in respect of the particular year may, where the particular year is before 1992, be determined without regard to the career average formula.

Transition Rule: Benefit Rate Greater Than 2 Per Cent

(9) Subject to subsection (6), where

(*a*) the amount of lifetime retirement benefits provided under a defined benefit provision of a registered pension plan to a member of the plan is determined, in part, by multiplying the member's remuneration (or a function of the member's remuneration) by one or more benefit accrual rates, and

(*b*) the largest benefit accrual rate that may be applicable is greater than 2%, the member's benefit accrual under the provision in respect of 1990 or 1991 is the lesser of

(*c*) the member's benefit accrual otherwise determined, and

(*d*) 2% of the aggregate of all amounts each of which is the amount that would, if the definition "compensation" in subsection 147.1(1) of the Act were read without reference to subparagraphs (*a*)(iii) and (*a*)(iv) and paragraphs (*b*) and (*c*) thereof, be the member's compensation for the year from an employer who participated in the plan in the year for the benefit of the member.

Period of Reduced Remuneration

(10) For the purposes of paragraph (9)(*d*), where a member of a registered pension plan is provided with benefits under a defined benefit provision of the plan in respect of a period in 1990 or 1991

(*a*) throughout which, by reason of disability, leave of absence, lay-off or other circumstances, the member rendered no services to employers who participate in the plan, or rendered a reduced level of services, and

(*b*) throughout which the member received no remuneration, or a reduced rate of remuneration,

the member's compensation shall be determined on the assumption that the member received remuneration for the period equal to the amount of remuneration that it is reasonable to consider the member would have received if the member had rendered services throughout the period on a regular basis (having regard to the services rendered by the member before the period) and the member's rate of remuneration had been commensurate with the member's rate of remuneration when the member did render services on a regular basis.

Anti-Avoidance

(11) Where the terms of a defined benefit provision of a registered pension plan can reasonably be considered to have been established or modified so that a pension credit of an individual for a calendar year under the provision would, but for this subsection, be reduced as a consequence of the application of paragraph (3)(*g*), that paragraph shall

not apply in determining the individual's normalized pension under the provision in respect of the year.

PAST SERVICE PENSION ADJUSTMENT

PSPA in Respect of Employer

8303.(1) For the purposes of subsection 248(1) of the Act, "past service pension adjustment" of an individual for a calendar year in respect of an employer means the accumulated PSPA of the individual for the year in respect of the employer, determined as of the end of the year.

Accumulated PSPA for Year

(2) For the purposes of this Part and subsection 204.2(1.3) of the Act, the accumulated PSPA of an individual for a calendar year in respect of an employer, determined as of any time, is the aggregate of all amounts each of which is the individual's provisional PSPA in respect of the employer

(*a*) associated with a past service event (other than a certifiable past service event in respect of the individual) that occurred in the year and before that time, or

(*b*) associated with a certifiable past service event in respect of the individual where the Minister has, in the year and before that time, issued a certification for the purposes of subsection 147.1(10) of the Act as it applies with respect to the event and the individual.

Provisional PSPA

(3) Subject to subsections (8) and (10) and sections 8304 and 8308, for the purposes of this Part, the provisional PSPA of an individual in respect of an employer associated with a past service event that occurs at a particular time in a particular calendar year is the amount determined by the formula

$$A - B - C$$

where

A is the aggregate of all amounts each of which is, in respect of a calendar year after 1989 and before the particular year, the amount that would have been the individual's pension credit for the year in respect of the employer under a defined benefit provision of a registered pension plan (other than a plan that is, at the particular time, a specified multi-employer plan) had the individual's benefit entitlement under the provision in respect of the year and the employer been equal to the individual's redetermined benefit entitlement (determined as of the particular time) under the provision in respect of the year and the employer,

B is the aggregate that would be determined for A if the reference in the description of A to "determined as of the particular time" were read as a reference to "determined as of the time immediately before the particular time", and

C is such portion of the amount of the individual's qualifying transfers made in connection with the past service event as is not deducted in computing the provisional PSPA of the individual in respect of any other employer.

Redetermined Benefit Entitlement

(4) For the purposes of the description of A in subsection (3), an individual's redetermined benefit entitlement under a defined benefit provision of a registered pension plan in respect of a calendar year and an employer, determined as of a particular time, is the amount that would be determined under section 8302 to be the individual's benefit entitlement under the provision in respect of the year and the employer if, for the purpose of computing the benefit accrual of the individual in respect of the year under the provision and, where subsection 8302(6) is applicable, under any other defined benefit provision, the amount determined under paragraph 8302(2)(*a*) with respect to a specific provision were equal to such portion of the individual's normalized pension (computed in accordance with subsection (5)) under the specific provision at the particular time, determined with reference to the year, as may reasonably be considered to have accrued in respect of the year.

Normalized Pension

(5) For the purposes of subsection (4), the normalized pension of an individual under a defined benefit provision of a registered pension plan at a particular time, determined with reference to a calendar year (in this subsection referred to as the "pension credit year"), is the amount (expressed on an annualized basis) of lifetime retirement benefits, other than excluded benefits, that would be payable to the individual under the provision immediately after the particular time if

(*a*) where lifetime retirement benefits have not commenced to be paid under the provision to the individual before the particular time, they commenced to be paid immediately after the particular time,

(*b*) where the individual had not attained 65 years of age before the time at which lifetime retirement benefits commenced to be paid (or are to be assumed by reason of paragraph (*a*) to have commenced to be paid) to the individual, the individual attained that age at that time,

(*c*) the amount of the individual's lifetime retirement benefits were determined with regard to all past service events occurring at or before the particular time and without regard to past service events occurring after the particular time,

(*d*) the rules in paragraphs 8302(3)(*c*) to (*p*) (other than the rule in paragraph 8302(3)(*g*), where subsection 8302(11) was applicable with respect to the pension credit year and the provision or would have been so applicable had all benefits provided as a consequence of past service events become provided in the pension credit year) were applied for the purpose of determining the amount of the individual's lifetime retirement benefits and, for the purpose of those paragraphs, the pension credit year were the particular year referred to in those paragraphs, and

(*e*) where

(i) the amount of the individual's lifetime retirement benefits under the provision depends on the individual's remuneration, and

(ii) all or any part of the individual's lifetime retirement benefits in respect of the pension credit year became provided as a consequence of a past service event and pursuant to terms of the provision that enable benefits to be provided to members of the plan in respect of periods of employment with employers who have not participated under the provision,

the remuneration received by the individual from each such employer in respect of a period of employment with whom the individual is provided with benefits under the provision were remuneration received from an employer who has participated under the provision for the benefit of the individual,

and, for the purposes of this subsection, the following benefits are excluded benefits:

(*f*) where the formula for determining the amount of lifetime retirement benefits payable under the provision to the individual requires the calculation of an amount that is the product of a fixed rate and the duration of all or part of the individual's pensionable service, benefits payable as a direct consequence of an increase at any time (in this paragraph referred to as the "time of increase") after the pension credit year in the value of the fixed rate, other than

(i) benefits provided as a consequence of a second or subsequent increase in the value of the fixed rate after the time that retirement benefits under the provision commenced to be paid to the individual, or

(ii) benefits that would not have become provided had the value of the fixed rate been increased to the amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the value that the fixed rate had immediately before the time of increase,

B is the average wage for the calendar year that includes the time of increase, and

C is

(A) if the value of the fixed rate has previously been increased in the calendar year that includes the time of increase, the average wage for that year, or

(B) otherwise, the average wage for the year immediately preceding the calendar year that includes the time of increase;

(*g*) where

(i) the provision is a flat benefit provision,

(ii) at the particular time, the amount (expressed on an annual basis) of lifetime retirement benefits provided under the provision to each member in respect of pensionable service in each calendar year does not exceed 40% of the defined benefit limit for the year that includes the particular time,

(iii) the conditions in subsection 8306(2) are satisfied with respect to the provision and the past service event in connection with which the normalized pension is being calculated, and

(iv) only one fixed rate is applicable in determining the amount of the individual's lifetime retirement benefits,

benefits provided as a direct consequence of an increase at any time (in this paragraph referred to as the "time of increase") after the pension credit year in the value of the fixed rate, other than

(v) benefits provided as a consequence of a second or subsequent increase in the value of the fixed rate after the time that retirement benefits under the provision commenced to be paid to the individual, or

(vi) benefits that would not have become provided had the value of the fixed rate been increased to the greater of

(A) the greatest of all amounts each of which is an amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is a value that the fixed rate had in the period commencing January 1, 1984 (or such later date as the initial value of the fixed rate was first applicable) and ending immediately before the time of increase,

B is the average wage for the calendar year that includes the time of increase, and

C is the average wage for the calendar year in which the value of the fixed rate used for A was first effective, and

(B) the amount determined by the formula

$$D + (E \times F)$$

where

D is the value that the fixed rate had immediately before the time of increase,

E is the amount by which the value of the fixed rate used for D would have to be increased to provide an increase in the individual's annual lifetime retirement benefits equal to $18 for each year of pensionable service, and

F is the duration (measured in years, including any fraction of a year) of the period that commences on the later of January 1, 1984 and the day on which the value of the fixed rate used for D was first effective and that terminates on the day that includes the time of increase,

(*h*) where the provision is a flat benefit provision, benefits provided as a direct consequence of an increase at any time (in this paragraph referred to as the "time of increase") after the pension credit year in the value of a fixed rate under the provision where

(i) the value of the fixed rate was increased pursuant to an agreement made before 1992, and

(ii) at the time the agreement was made, it was reasonable to expect that the percentage increase in the value of the fixed rate would approximate or be less than the percentage increase in the average wage from the calendar year in which the value of the fixed rate was last increased before the time of increase (or, if the increase is the first increase, the calendar year in which the initial value of the fixed rate was first applicable) to the calendar year that includes the time of increase,

(*i*) where the provision is a flat benefit provision under which the amount of each member's retirement benefits depends on the member's job category or rate of pay in such a manner that the ratio of the amount of lifetime retirement benefits to remuneration does not significantly increase as remuneration increases, benefits provided as a direct consequence of a change, after the pension credit year, in the individual's job category or rate of pay,

(*j*) where

(i) the individual's pensionable service under the provision ends before the particular time,

(ii) the individual's lifetime retirement benefits under the provision have been adjusted by a cost-of-living or similar adjustment in respect of the period (in this paragraph referred to as the "deferral period") commencing at the latest of

(A) the time at which the individual's pensionable service under the provision ends,

(B) if the amount of the individual's lifetime retirement benefits depends on the individual's remuneration, the end of the most recent period for which the individual received remuneration that is taken into account in determining the individual's lifetime retirement benefits,

(C) if the amount of the individual's lifetime retirement benefits depends on the individual's remuneration and the remuneration is adjusted as described in paragraph 8302(3)(*h*), the end of the period in respect of which the adjustments are made, and

(D) if the formula for determining the amount of the individual's lifetime retirement benefits requires the calculation of an amount that is the product of a fixed rate and the duration of all or part of the individual's pensionable service (or other measure of services rendered by the individual), the time as of which the value of the fixed rate applicable with respect to the individual was established

and ending at the earlier of the particular time and the time, if any, at which lifetime retirement benefits commenced to be paid under the provision to the individual, and

(iii) the adjustment is warranted, having regard to all prior such adjustments, by the increase in the Consumer Price Index or in the wage measure from the commencement of the deferral period to the time at which the adjustment was made,

benefits payable as a consequence of the adjustment,

(*k*) benefits payable as a consequence of a cost-of-living adjustment made after the time that lifetime retirement benefits commenced to be paid under the provision to the individual, where the adjustment

(i) is warranted, having regard to all prior such adjustments, by the increase in the Consumer Price Index from that time to the time at which the adjustment was made, or

(ii) is a periodic adjustment described in subparagraph 8503(2)(*a*)(ii), and

(*l*) such portion of the individual's lifetime retirement benefits as

(i) would not otherwise be excluded in determining the individual's normalized pension,

(ii) may reasonably be considered to be attributable to cost-of-living adjustments or to adjustments made by reason of increases in a general measure of salaries and wages (other than increases in such a measure after the time at which lifetime retirement benefits commenced to be paid under the provision to the individual), and

(iii) is acceptable to the Minister.

Qualifying Transfers

(6) For the purposes of subsections (3) and 8304(5) and (7), the amount of an individual's qualifying transfers made in connection with a past service event is the aggregate of all amounts each of which is such portion of an amount transferred to a registered pension plan

(*a*) in accordance with any of subsections 146(16), 147(19), 147.3(2), (5) and (7) of the Act, or

(*b*) from a specified multi-employer plan in accordance with subsection 147.3(3) of the Act

as is transferred to fund benefits provided to the individual as a consequence of the past service event.

Deemed Payment

(7) Where

(*a*) an individual has given an irrevocable direction that an amount be paid to a registered pension plan if the Minister issues a certification for the purposes of subsection 147.1(10) of the Act as it applies with respect to the individual and benefits provided under a defined benefit provision of the plan as a consequence of a past service event, and

(*b*) the amount will be paid within 90 days after the certification is received by the administrator of the plan,

the amount shall be deemed, for the purpose of subsection (6), to have been paid at the time the direction was given.

Specified Multi-Employer Plan

(8) Where, in a calendar year, an individual makes a contribution (other than an excluded contribution) in respect of a defined benefit provision of a registered pension plan that is, in the year, a specified multi-employer plan, and the contribution

(*a*) is made in respect of a period after 1989 and before the year, and (*b*) is not included in determining the individual's pension credit for the year in respect of any employer under the provision,

the individual's provisional PSPA in respect of an employer who participates in the plan, associated with the payment of the contribution, is the portion of the contribution that is not included in the individual's provisional PSPA in respect of any other employer who participates in the plan, and for the purpose of this subsection the plan administrator shall determine the portion of the contribution to be included in the provisional PSPA of the individual in respect of each employer.

Conditional Contributions

(9) For the purpose of subsection (8), a contribution includes an amount paid by an individual to a registered pension plan where the right of any person to retain the amount on behalf of the plan is conditional on the Minister issuing a certification for the purposes of subsection 147.1(10) of the Act as it applies with respect to the individual and benefits provided as a consequence of the payment.

Benefits in Respect of Foreign Service

(10) Where

(*a*) as a consequence of a past service event, benefits become provided to an individual under a defined benefit provision of a registered pension plan in respect of a period throughout which the individual was employed outside Canada, and

(*b*) the Minister has consented in writing to the application of this subsection,

each provisional PSPA of the individual associated with the past service event shall be determined on the assumption that no benefits were provided in respect of the period.

PAST SERVICE BENEFITS - ADDITIONAL RULES

Replacement of Defined Benefits

8304.(1) Where

(*a*) an individual ceased, at any time in a calendar year, to have any rights to benefits under a defined benefit provision of a registered pension plan (in this subsection referred to as the "former provision"),

(*b*) benefits became provided at that time to the individual under another defined benefit provision of a registered pension plan (in this subsection referred to as the "current provision") in lieu of the benefits under the former provision,

(*c*) the benefits that became provided at that time to the individual under the current provision in respect of the period in the year before that time are attributable to employment with the same employers as were the individual's benefits in respect of that period under the former provision,

(*d*) no amount was transferred in the year on behalf of the individual from the former provision to a registered retirement savings plan or to a money purchase provision of a registered pension plan, and

(*e*) no benefits became provided under the former provision to the individual in the year and after that time,

each pension credit of the individual under the former provision for the year is nil.

Replacement of Money Purchase Benefits

(2) Where

(*a*) an individual ceased, at any time in a calendar year, to have any rights to benefits under a money purchase provision of a registered pension plan or under a deferred profit sharing plan (in this subsection referred to as the "former provision"),

(*b*) benefits became provided at that time to the individual under a defined benefit provision of a registered pension plan (in this subsection referred to as the "current provision") in lieu of benefits under the former provision,

(*c*) the benefits that became provided at that time to the individual under the current provision in respect of the period in the year before that time are attributable to employment with the same employers who made contributions under the former provision in respect of that period on behalf of the individual,

(*d*) no amount was transferred in the year on behalf of the individual from the former provision to a registered retirement savings plan, a money purchase provision of a registered pension plan or a deferred profit sharing plan, and

(*e*) no contributions were made under the former provision in the year and after that time by, or on behalf of, the individual,

each pension credit of the individual under the former provision for the year is nil.

Past Service Benefits in Year of Past Service Event

(3) Subject to subsection (4), where, as a consequence of a past service event that occurs at a particular time in a calendar year, benefits (in this subsection and subsection (4) referred to as "past service benefits") become provided to an individual under a defined benefit provision of a registered pension plan in respect of a period in the year and before the particular time that, immediately before the past service event, was not pensionable service of the individual under the provision, the following rules apply, except to the extent that the Minister has waived in writing their application in respect of the plan:

(*a*) each pension credit of the individual under the provision for the year shall be determined as if the past service benefits had not become provided to the individual;

(*b*) where the year is 1990, the past service event shall be deemed, for the purposes of this Part, to have occurred immediately after the end of the year;

(*c*) where the year is after 1990, each provisional PSPA of the individual associated with the past service event as a consequence of which the past service benefits became provided shall be determined as if the past service event had occurred immediately after the end of the year;

(*d*) where information required for the computation of a provisional PSPA referred to in paragraph (*c*) is not determinable until after the time at which the provisional PSPA is computed, reasonable assumptions shall be made with respect to such information; and

(*e*) subsection 147.1(10) of the Act shall apply with respect to the past service benefits to the extent that the subsection would apply if the past service event had occurred immediately after the end of the year.

Exceptions

(4) Subsection (3) does not apply where

(*a*) the past service benefits become provided in circumstances where subsection (1) or (2) is applicable;

(*b*) the period in respect of which the past service benefits are provided (in this subsection referred to as the "past service period") was not, at any time before the past service event,

(i) pensionable service of the individual under a defined benefit provision of any registered pension plan, or

(ii) a period in respect of which contributions were made on behalf of the individual to a money purchase provision of a registered pension plan or to a deferred profit sharing plan; or

(*c*) the past service period was previously pensionable service of the individual under the defined benefit provision under which the past service benefits are provided, and no amount was transferred in the year on behalf of the individual from the provision to a registered retirement savings plan or to a money purchase provision of a registered pension plan.

Modified PSPA Calculation

(5) Where

(*a*) lifetime retirement benefits have, as a consequence of a past service event, become provided to an individual under a defined benefit provision (in this subsection referred to as the "current provision") of a registered pension plan in respect of a period (in this subsection referred to as the "past service period") that

(i) immediately before the past service event, was not pensionable service of the individual under the provision, and

(ii) is, or was, pensionable service of the individual under another defined benefit provision (in this subsection referred to as the "former provision") of a registered pension plan,

(*b*) either

(i) the individual has ceased to be entitled to benefits under the former provision,

(ii) the individual will cease to be entitled to benefits under the former provision when a certification of the Minister is issued for the purposes of subsection 147.1(10) of the Act as it applies with respect to benefits provided to the individual as a consequence of the past service event, or

(iii) all benefits to which the individual is entitled under the former provision will be paid within 90 days after a certification of the Minister is issued for the purposes of subsection 147.1(10) of the Act as it applies with respect to benefits provided to the individual as a consequence of the past service event,

(*c*) the lifetime retirement benefits are, for the purposes of this Part, considered to be attributable to employment of the individual with a single employer (in this subsection referred to as the "current employer"), and

(*d*) lifetime retirement benefits (in this subsection referred to as the "former benefits") to which the individual is or was entitled under the former provision in respect of the past service period have not been taken into account pursuant to this subsection in determining a provisional PSPA of the individual associated with any other past service event,

the provisional PSPA of the individual in respect of the current employer associated with the past service event is the amount determined by the formula

$$A + B + C - D$$

where

A is the provisional PSPA that would be determined if

(*a*) this subsection were not applicable,

(*b*) the former benefits had ceased to be provided at the time at which the past service event occurred,

(*c*) the former benefits were, for the purposes of this Part, considered to be attributable to employment of the individual with the current employer, and

(*d*) the value for C in the formula in subsection 8303(3) were nil,

B is

(*a*) where subsection 8301(8) has applied, or will apply, with respect to the determination of a pension credit of the individual under the former provision for a year that includes any part of the past service period, the aggregate of all amounts each of which is the amount, if any, by which

(i) the amount that would be the individual's pension credit under the former provision for the year in respect of an employer if subsection 8301(8) were not applicable

exceeds

(ii) the individual's pension credit under the provision for the year in respect of the employer, and

(*b*) otherwise, nil,

C is the aggregate of all amounts each of which is an amount transferred on behalf of the individual from the former provision to a registered retirement savings plan, a money purchase provision of a registered pension plan or a defined benefit provision of a registered pension plan that was, at the time of the transfer, a specified multi-employer plan, to the extent that the amount may reasonably be considered to be the payment of a benefit in respect of such part of the past service period as is after 1989, and

D is the amount of the individual's qualifying transfers made in connection with the past service event, as determined pursuant to subsection 8303(6).

Reinstatement of Benefits

(6) Where lifetime retirement benefits have, as a consequence of a past service event, become provided to an individual under a defined benefit provision of a registered pension plan in respect of a period that

(*a*) immediately before the past service event, was not pensionable service of the individual under the provision, and

(*b*) was previously pensionable service of the individual under the provision,

the following rules apply for the purpose of determining each provisional PSPA of the individual associated with the past service event:

(*c*) each provisional PSPA shall be determined as if the lifetime retirement benefits had become provided under another defined benefit provision of a registered pension plan, and

(*d*) subsection (5) shall be read without reference to paragraph (*b*) thereof.

Two or More Employers

(7) Where

(*a*) lifetime retirement benefits (in this subsection referred to as "past service benefits") provided to an individual under a defined benefit provision of a registered pension plan as a consequence of a past service event are attributable to employment of the individual with two or more employers (each of which is, in this subsection, referred to as a "current employer"), and

(*b*) subsection (5) would, but for the condition in paragraph (5)(*c*), apply with respect to the determination of each provisional PSPA of the individual associated with the past service event,

each such provisional PSPA shall be determined in accordance with the formula in subsection (5), except that (*c*) in determining the amount A,

(i) the former benefits of the individual shall be considered to be attributable to employment of the individual with the individual's current employers, and

(ii) the portion of the former benefits attributable to employment with each current employer shall be determined by the administrator of the pension plan under which the past service benefits are provided in a manner that is consistent with the association of the past service benefits with each current employer,

(*d*) the amounts B and C shall be included in computing only one provisional PSPA of the individual, as determined by the administrator of the pension plan under which the past service benefits are provided, and

(*e*) the amount D that is deducted in computing the individual's provisional PSPA in respect of a particular employer shall equal such portion of the individual's qualifying transfers made in connection with the past service event as is not deducted in computing the provisional PSPA of the individual in respect of any other employer.

Additional Rules Re Calculation of PSPA

(8) The following rules apply for the purposes of subsection (5) as it applies with respect to the determination of a provisional PSPA of an individual associated with a past service event:

(*a*) where the individual is entitled to benefits under the former provision at the time at which application is made for a certification of the Minister for the purposes of subsection 147.1(10) of the Act as it applies with respect to benefits provided to the individual as a consequence of the past service event, the amount C in the formula in subsection (5) shall be determined on the assumption that all amounts that will be paid under the former provision in respect of the individual after the certification is issued, other than any amount that will be transferred to fund benefits provided as a consequence of the past service event, have been transferred on behalf of the individual to a registered retirement savings plan;

(*b*) where an amount is credited to the individual under a money purchase provision of a registered pension plan in lieu of benefits to which the individual was entitled under a defined benefit provision of the plan, the amount shall be considered to be the payment of a benefit that was transferred from the defined benefit provision to the money purchase provision;

(*c*) the amount B in the formula in subsection (5) shall be determined on the assumption that no benefits will accrue to the individual under the former provision after the time at which the determination is made; and

(*d*) where lifetime retirement benefits have, as a consequence of the past service event, become provided to the individual in respect of two or more separate periods, the periods shall be considered to be a single period.

Specified Multi-Employer Plans

(9) Except in subparagraph (4)(*b*)(i), a reference in this section to a defined benefit provision of a registered pension plan at any time does not, unless expressly provided, include a defined benefit provision of a plan that is, at that time, a specified multi-employer plan.

ASSOCIATION OF BENEFITS WITH EMPLOYERS

8305.(1) Where, for the purposes of this Part, it is necessary to determine the portion of an amount of benefits provided in respect of a member of a registered pension plan under a defined benefit provision of the plan that is attributable to the member's employment with a particular employer, the following rules apply, subject to subsection 8308(7):

(*a*) the determination shall be made by the plan administrator;

(*b*) benefits provided as a consequence of services rendered by the member to an employer who participates in the plan shall be regarded as attributable to employment with that employer, whether the benefits become provided at the time the services are rendered or at a subsequent time; and

(*c*) the determination shall be made in a manner that

(i) is reasonable in the circumstances,

(ii) is not inconsistent with such determinations made previously, and

(iii) results in the full amount of benefits being attributed to employment with one or more employers who participate in the plan.

(2) Where the administrator of a registered pension plan does not comply with the requirements of subsection (1) in connection with the determination of an amount under this Part at any time,

(*a*) the plan becomes, at that time, a revocable plan; and

(*b*) the Minister shall make any determinations referred to in subsection (1) that the administrator fails to make, or fails to make in accordance with that subsection.

EXEMPTION FROM CERTIFICATION

8306.(1) For the purposes of subsection 147.1(10) of the Act as it applies with respect to a past service event and the benefits provided under a defined benefit provision of a registered pension plan in respect of a particular member of the plan, a certification of the Minister is not required where

(*a*) each provisional PSPA of the member associated with the past service event is nil;

(*b*) the conditions in subsection (2) or (3) are satisfied;

(*c*) the conditions in subsection (2) or (3) are substantially satisfied and the Minister waives in writing the requirement for certification; or

(*d*) the past service event is deemed by paragraph 8304(3)(*b*) to have occurred immediately after the end of 1990.

(2) The following are conditions for the purposes of paragraphs (1)(*b*) and (*c*) and 8303(5)(*g*):

(*a*) there are more than 9 active members under the provision;

(*b*) no more than 25% of the active members under the provision are specified active members under the provision;

(*c*) for all or substantially all of the active members under the provision, the amount of lifetime retirement benefits accrued under the provision has increased as a consequence of the past service event;

(*d*) where there is a specified active member under the provision,

(i) the amounts C and D are greater than nil, and

(ii) the amount determined by the formula

$$\frac{A}{C}$$

does not exceed the amount determined by the formula

$$\frac{B}{D}$$

where

A is the aggregate of all amounts each of which is the amount of lifetime retirement benefits accrued under the provision, immediately after the past service event, to a specified active member under the provision,

B is the aggregate of all amounts each of which is the amount of lifetime retirement benefits accrued under the provision, immediately after the past service event, to an active member (other than a specified active member) under the provision,

C is the aggregate of all amounts each of which is the amount of lifetime retirement benefits accrued under the provision, immediately before the past service event, to a specified active member under the provision, and

D is the aggregate of all amounts each of which is the amount of lifetime retirement benefits accrued under the provision, immediately before the past service event, to an active member (other than a specified active member) under the provision; and

(*e*) the benefits provided under the provision as a consequence of the past service event to members of the plan who are not active members under the provision are not more advantageous than such benefits provided to active members under the provision.

(3) The following are conditions for the purposes of paragraphs (1)(*b*) and (*c*):

(*a*) the past service event consists of the establishment of the provision;

(*b*) there are more than 9 active members under the provision;

(*c*) no more than 25% of the active members under the provision are specified active members under the provision;

(*d*) the member is not a specified active member under the provision;

(*e*) if the member is not an active member under the provision, for each of the five years immediately preceding the calendar year in which the past service event occurs

(i) the member was not connected at any time in the year with an employer who participates in the plan, and

(ii) the aggregate of all amounts each of which is the remuneration of the member for the year from an employer who participates in the plan did not exceed 2 1/2 times the Year's Maximum Pensionable Earnings for the year; and

(*f*) the aggregate of all amounts each of which is a provisional PSPA of the member associated with the past service event does not exceed 7/2 of the money purchase limit for the year in which the past service event occurs.

(4) For the purposes of this section as it applies with respect to a past service event,

(*a*) a member of a pension plan is an active member under a defined benefit provision of the plan if

(i) lifetime retirement benefits accrue under the provision to the member in respect of a period that immediately follows the time at which the past service event occurs, or

(ii) the member is entitled, immediately after the time at which the past service event occurs, to lifetime retirement benefits under the provision in respect of a period before that time and it is reasonable to expect, at that time, that lifetime retirement benefits will accrue under the provision to the member in respect of a period after that time; and

(*b*) an active member under a defined benefit provision of a pension plan is a specified active member under the provision if

(i) the member is connected, at the time of the past service event, with an employer who participates in the plan, or

(ii) it is reasonable to expect, at the time of the past service event, that the aggregate of all amounts each of which is the remuneration of the member for the calendar year in which the past service event occurs from an employer who participates in the plan will exceed 2 1/2 times the Year's Maximum Pensionable Earnings for the year.

CERTIFICATION IN RESPECT OF PAST SERVICE EVENTS

Application for Certification

8307.(1) Application for a certification of the Minister for the purposes of subsection 147.1(10) of the Act shall be made in prescribed form by the administrator of the registered pension plan to which the certification relates.

Prescribed Condition

(2) For the purposes of subsection 147.1(10) of the Act as it applies with respect to a past service event and benefits in respect of a particular member of a registered pension plan, the prescribed condition is that, at the particular time that the Minister issues the certification,

(*a*) the aggregate of all amounts each of which is the member's provisional PSPA in respect of an employer associated with the past service event

does not exceed

(*b*) the amount determined by the formula

$$\$8,000 + A + B + C - D$$

where

A is the member's unused RRSP deduction room at the end of the year immediately preceding the calendar year (in this paragraph referred to as the "particular year") that includes the particular time,

B is the amount of the member's qualifying withdrawals made for the purposes of the certification, determined as of the particular time,

C is the amount of the member's PSPA withdrawals for the particular year, determined as of the particular time, and

D is the aggregate of all amounts each of which is the accumulated PSPA of the member for the particular year in respect of an employer, determined as of the particular time.

Qualifying Withdrawals

(3) For the purposes of paragraph (5)(*a*) and the description of B in paragraph (2)(*b*), the amount of an individual's qualifying withdrawals made for the purposes of a certification with respect to a past service event, determined as of a particular time, is the lesser of

(*a*) the aggregate of all amounts each of which is such portion of

(i) an amount withdrawn by the individual from a registered retirement savings plan under which the individual was the annuitant (within the meaning assigned by subsection 146(1) of the Act) at the time of the withdrawal as

(ii) is eligible, pursuant to subsection (4), to be designated for the purposes of the certification, and

(iii) is designated by the individual for the purposes of the certification by filing a prescribed form containing prescribed information with the Minister before the particular time; and

(*b*) the amount, if any, by which

(i) the aggregate of all amounts each of which is the provisional PSPA of the individual in respect of an employer associated with the past service event

exceeds

(ii) the amount, which can be positive or negative, determined by the formula

$$A + C - D$$

where A, C and D have the same values as they have at the particular time for the purposes of the formula in paragraph (2)(*b*).

Eligibility of Withdrawn Amount for Designation

(4) An amount withdrawn by an individual from a registered retirement savings plan is eligible to be designated for the purposes of a certification except to the extent that the following rules provide otherwise:

(*a*) the amount is not eligible to be designated if the amount was

(i) withdrawn from a registered retirement savings plan in a calendar year other than the year in which the designation would be filed with the Minister or either of the two immediately preceding calendar years, or

(ii) withdrawn in circumstances that entitle the individual to a deduction under paragraph 60(*l*) of the Act; and (*b*) the amount is not eligible to be designated to the extent that the amount

(i) was designated by the individual for the purposes of any other certification, or

(ii) was deducted under section 60.2 or subsection 146(8.2) of the Act in computing the individual's income for any taxation year.

PSPA Withdrawals

(5) For the purposes of the description of C in paragraph (2)(*b*) and the description of G in paragraph 146(1)(d.1) and subsection 204.2(1.3) of the Act, the amount of an individual's PSPA withdrawals for a calendar year, determined as of a particular time, is,

(*a*) if the Minister has issued, in the year and before the particular time, a certification for the purposes of subsection 147.1(10) of the Act in respect of the individual, the aggregate of all amounts each of which is the amount of the individual's qualifying withdrawals made for the purposes of a certification that the Minister has issued in the year and before the particular time; and

(*b*) in any other case, nil.

Prescribed Withdrawal

(6) For the purposes of subsection (7) and subsection 146(8.2) of the Act, a prescribed withdrawal is such portion of an amount withdrawn by an individual from a registered retirement savings plan under which the individual is the annuitant (within the meaning assigned by subsection 146(1) of the Act) as is designated in accordance with subparagraph (3)(*a*)(iii) for the purposes of a certification in respect of the individual.

Prescribed Premium

(7) For the purpose of subsection 146(6.1) of the Act, a premium paid by a taxpayer under a registered retirement savings plan under which the taxpayer is the annuitant (within the meaning assigned by subsection 146(1) of the Act) at the time the premium is paid is a prescribed premium for a particular taxation year of the taxpayer where the following conditions are satisfied:

(*a*) the taxpayer withdrew an amount (in this subsection referred to as the "withdrawn amount") in the particular year from a registered retirement savings plan for the purposes of a certification with respect to a past service event;

(*b*) all or any part of the withdrawn amount is a prescribed withdrawal pursuant to subsection (6);

(*c*) it is subsequently determined that

> (i) as a consequence of reasonable error, the taxpayer withdrew a greater amount than necessary for the purposes of the certification, or
>
> (ii) as a consequence of the application of paragraph 147.1(3)(*b*) of the Act, it was not necessary for the taxpayer to withdraw any amount;

(*d*) the premium is paid by the taxpayer in the 12 month period immediately following the time at which the determination referred to in paragraph (*c*) is made;

(*e*) the amount of the premium does not exceed such portion of the withdrawn amount as is a prescribed withdrawal pursuant to subsection (6) and is determined to have been an unnecessary withdrawal;

(*f*) the taxpayer files with the Minister, on or before the day on or before which the taxpayer is required (or would be required if tax under Part I of the Act were payable by the taxpayer for the taxation year in which the taxpayer pays the premium) by section 150 of the Act to file a return of income for the taxation year in which the taxpayer pays the premium, a written notice in which the taxpayer designates the premium as a recontribution of all or any portion of the withdrawn amount; and

(*g*) the taxpayer has not designated, pursuant to paragraph (f), any other premium as a recontribution of all or any portion of the withdrawn amount.

SPECIAL RULES

Benefits Provided Before Registration

8308.(1) For the purposes of this Part (other than this subsection) and subsection 147.1(10) of the Act, benefits that became provided under a defined benefit provision of a pension plan before the day as of which the plan becomes a registered pension plan shall be deemed to have become provided as a consequence of an event occurring on that day and not to have been provided before that day.

Prescribed Amount for Connected Persons

(2) Where

(*a*) at any particular time in a calendar year after 1990

(i) an individual becomes a member of a registered pension plan, or

(ii) lifetime retirement benefits commence to accrue to the individual under a defined benefit provision of a registered pension plan following a period in which lifetime retirement benefits did not accrue to the individual,

(*b*) the individual is connected at the particular time, or was connected at any time after 1989, with an employer who participates in the plan for the benefit of the individual,

(*c*) the individual did not have a pension adjustment for 1990 that was greater than nil, and

(*d*) this subsection has not applied before the particular time to prescribe an amount in respect of the individual,

an amount equal to the lesser of

(*e*) 18% of the individual's earned income (within the meaning assigned by paragraph 146(1)(*c*) of the Act) for 1990, and

(*f*) $11,500

is prescribed in respect of the individual for the year for the purposes of the descriptions of B in paragraphs 146(1)(*g*.1) and (*l*) and section 204.2(1.1) of the Act.

Remuneration for Prior Years

(3) Where an individual who is entitled to benefits under a defined benefit provision of a registered pension plan receives remuneration at a particular time in a particular calendar year no part of which is pensionable service of the individual under the provision and the remuneration is treated for the purpose of determining benefits under the provision as if it were remuneration received in one or more calendar years preceding the particular year for services rendered in those preceding years, the following rules apply:

(*a*) such portion of the remuneration as is treated under the provision as if it were remuneration received in a preceding calendar year for services rendered in that preceding year shall be deemed, for the purpose of determining, as of the particular time and any subsequent time, a redetermined benefit entitlement of the individual under the provision, to have been received in that preceding year for services rendered in that preceding year; and

(*b*) the pension credit of the individual for the particular year under the provision in respect of an employer is the aggregate of

(i) the amount that would otherwise be the individual's pension credit for the particular year, and

(ii) the amount that would, if the payment of the remuneration were a past service event, be the provisional PSPA (or a reasonable estimate thereof determined in a manner acceptable to the Minister) of the individual in respect of the employer associated with the payment of the remuneration.

Period of Reduced Services - Retroactive Benefits

(4) Where,

(*a*) as a consequence of a past service event, retirement benefits (in this subsection referred to as "retroactive benefits") become provided under a defined benefit provision of a registered pension plan (other than a plan that is a specified multi-employer plan) to an individual in respect of a period of reduced services of the individual,

(*b*) the period of reduced services was not, before the past service event, pensionable service of the individual under the provision, and

(*c*) the past service event occurs on or before April 30 of the year immediately following the calendar year in which ends the complete period of reduced services of the individual that includes the period of reduced services,

the following rules apply:

(*d*) each pension adjustment of the individual in respect of an employer for a year before the calendar year in which the past service event occurs shall be deemed to be, and to always have been, the aggregate of

(i) the amount that would otherwise be the individual's pension adjustment in respect of the employer for the year, and

(ii) such portion of the provisional PSPA of the individual in respect of the employer associated with the past service event as may reasonably be considered to be attributable to the provision of retroactive benefits in respect of the year, and

(*e*) each provisional PSPA of the individual in respect of an employer associated with the past service event shall be deemed (except for the purposes of this subsection) to be such portion of the amount that would otherwise be the individual's provisional PSPA as may reasonably be considered not to be attributable to the provision of retroactive benefits.

Period of Reduced Services - Retroactive Contributions

(5) Where

(*a*) a contribution (in this subsection referred to as a "retroactive contribution") is made by an individual, or by an employer in respect of the individual, under a money purchase provision of a registered pension plan in respect of a period in a particular calendar year that is a period of reduced services of the individual, and (*b*) the retroactive contribution is made after the particular year and on or before April 30 of the year immediately following the calendar year in which ends the complete period of reduced services of the individual that includes the period of reduced services,

the following rules apply:

(*c*) each pension adjustment of the individual for the particular year in respect of an employer shall be deemed to be, and to always have been, the amount that it would have been had the retroactive contribution been made at the end of the particular year, and

(*d*) the retroactive contribution shall be deemed, for the purpose of determining pension adjustments of the individual for any year after the particular year, to have been made at the end of the particular year and not to have been made at any subsequent time.

Commitment to Make Retroactive Contributions

(6) Where

(*a*) an individual enters into a written commitment to make a contribution under a money purchase provision of a registered pension plan,

(*b*) the commitment is made to the administrator of the plan or to an employer who participates in the plan, and

(*c*) the rules in subsection (5) would apply with respect to the contribution if the contribution were made at the time at which the individual enters into the commitment,

the following rules apply for the purposes of this Part:

(*d*) the individual shall be deemed to have made the contribution to the plan at the time at which the individual enters into the commitment,

(*e*) if the individual subsequently pays all or any part of the contribution to the plan pursuant to the commitment, the amount paid to the plan shall be deemed not to be a contribution made to the plan, (*f*) any contribution that an employer is required to make under the money purchase provision conditional upon the individual making the contribution that the individual has committed to pay and with respect to which subsection (5) would apply if the contribution were made by the employer at the time at which the individual enters into the commitment shall be deemed to have been made by the employer at that time, and

(*g*) if an employer subsequently pays to the plan all or any part of a contribution in respect of which paragraph (f) is applicable, the amount paid to the plan shall be deemed not to be a contribution made to the plan.

Loaned Employee

(7) Where, pursuant to an arrangement between an employer (in this subsection referred to as the "lending employer") who is a participating employer in relation to a pension plan and an employer (in this subsection referred to as the "borrowing employer") who, but for this subsection, would not be a participating employer in relation to the plan,

(*a*) an employee of the lending employer renders services to the borrowing employer for which the employee receives remuneration from the borrowing employer, and

(*b*) while the employee renders services to the borrowing employer, benefits continue to accrue under a defined benefit provision of the plan to the employee, or the lending employer continues to make contributions under a money purchase provision of the plan in respect of the employee,

the following rules apply:

(*c*) for the purpose of the definition "participating employer" in subsection 147.1(1) of the Act as it applies with respect to the plan, the borrowing employer is a prescribed employer;

(*d*) the determination, for the purposes of this Part, of the portion of the employee's benefit accrual under a defined benefit provision of the plan in respect of a year that can reasonably be considered to be attributable to the employee's employment with each of the lending and borrowing employers shall be made with regard to the remuneration received by the employee for the year from each employer; and

(*e*) such portion of the contributions made under a money purchase provision of the plan by the lending employer as may reasonably be considered to be in respect of the employee's remuneration from the borrowing employer shall be deemed, for the purposes of this Part, to be contributions made by the borrowing employer.

Successor Plan

(8) Notwithstanding any other provisions of this Part, other than section 8309, where

(*a*) all benefits in respect of an individual under a defined benefit provision (in this subsection referred to as the "former provision") of a registered pension plan are replaced in a calendar year by identical benefits under a defined benefit provision of another registered pension plan,

(*b*) the replacement of benefits is consequent upon a transfer of the individual's employment from one employer (in this subsection referred to as the "former employer") to another employer (in this subsection referred to as the "successor employer"), and

(*c*) the Minister consents in writing to the application of this subsection in respect of that replacement of benefits,

the individual's pension adjustments for the year in respect of the former employer and the successor employer shall be the amounts that they would be if all benefits in respect of the individual under the former provision had been attributable to employment with the successor employer and not to employment with the former employer.

Statutory Plans

(9) The following rules apply with respect to the pension plans established by the *Lieutenant Governors Superannuation Act* and the *Judges Act*:

(*a*) those pension plans shall be deemed, for the purposes of this Part, to be registered pension plans; and (*b*) in the case of an individual who is, at any time in a particular calendar year after 1989, a lieutenant governor of a province (other than a lieutenant governor who is not a contributor within the meaning assigned by the *Lieutenant Governors Superannuation Act*) or a judge, the individual's pension credit for the year under the defined benefit provision of the plan established by the *Lieutenant Governors Superannuation Act*, if the individual is a lieutenant governor, or the plan established by the *Judges Act*, if the individual is a judge, is the amount, if any, by which

(i) the lesser of

(A) 18% of the salary received by the individual for the year as a lieutenant governor or a judge, and

(B) the money purchase limit for the year

exceeds

(ii) $1,000.

Plan Under Judges Act

(10) For greater certainty, the provisions of the *Judges Act* relating to the granting of annuities to judges shall be considered, for the purposes of this Part, to be a defined benefit provision of a pension plan.

Special Downsizing Benefits

(11) Where

(*a*) lifetime retirement benefits that do not comply with the condition in paragraph 8503(3)(*a*) are provided to an individual under a defined benefit provision of a registered pension plan, and

(*b*) the benefits are permissible only by reason of subsection 8505(3),

each pension credit of the individual under the provision and each provisional PSPA of the individual shall be determined without regard to the lifetime retirement benefits.

MINISTER'S POWERS

8309.(1) Where more than one method for determining an amount under this Part complies with the rules in this Part, only such of those methods as are acceptable to the Minister shall be used.

(2) Where, in a particular case, the rules in this Part require the determination of an amount in a manner that is not appropriate having regard to the provisions of this Part read as a whole and the purposes for which the amount is determined, the Minister may permit or require the amount to be determined in a manner that, in the Minister's opinion, is appropriate.

(3) Where, pursuant to subsection (2), the Minister gives permission or imposes a requirement, the permission or requirement is not effective unless it is given or imposed in writing.

ROUNDING OF AMOUNTS

8310. Where a pension credit or provisional PSPA of an individual is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, if it is equidistant from two such consecutive multiples, to the higher thereof.

PART LXXXIV

REGISTERED PLANS - REPORTING AND PROVISION OF INFORMATION

DEFINITIONS

8400.(1) All words and expressions used in this Part that are defined in subsection 8300(1) or 8500(1) or in subsection 147.1(1) of the Act have the meanings assigned in those provisions.

(2) A reference in this Part to a pension credit of an individual means a pension credit of the individual as determined under Part LXXXIII.

(3) For the purposes of this Part, where the administrator of a pension plan is not otherwise a person, the administrator shall be deemed to be a person.

PENSION ADJUSTMENT

8401.(1) Where the pension adjustment of an individual for a calendar year in respect of an employer is greater than nil, the employer shall, on or before the last day of February in the immediately following calendar year, file with the Minister an information return in prescribed form reporting the pension adjustment, other than the portion, if any, required by subsection (2) or (3) to be reported by the administrator of a registered pension plan.

(2) Where an individual makes a contribution in a particular calendar year to a registered pension plan that is a specified multi-employer plan in the year and the contribution is not remitted to the plan by any participating employer on behalf of the individual, the plan administrator shall, on or before the last day of February in the immediately following calendar year, file with the Minister an information return in prescribed form reporting the aggregate of all amounts each of which is the portion, if any, of the individual's pension adjustment for the particular year in respect of an employer that may reasonably be considered to result from the contribution.

(3) Where the portion of a pension credit of an individual for a calendar year that, pursuant to subsection (4), is reportable by the administrator of a registered pension plan is greater than nil, the administrator shall, on or before the last day of February in the immediately following calendar year, file with the Minister an information return in prescribed form reporting that portion of the pension credit.

(4) For the purpose of subsection (3), where, on application by the administrator of a registered pension plan that is, in a calendar year, a multi-employer plan (other than a specified multi-employer plan), the Minister consents in writing to the application of this subsection with respect to the plan in the year, such portion of each pension credit for the year under a defined benefit provision of the plan as may reasonably be considered to be attributable to benefits provided in respect of a period of reduced services of an individual is, to the extent permitted by the Minister, reportable by the administrator.

(5) Subsections (1) to (3) do not apply to require the reporting of amounts in respect of an individual for the calendar year in which the individual dies.

(6) Where the pension adjustment of an individual for a calendar year in respect of an employer is altered by reason of the application of paragraph 8308(4)(*d*) or (5)(*c*) and the amount (in this subsection referred to as the "redetermined amount") that a person would have been required to report based on the pension adjustment as altered exceeds

(*a*) if the person has not previously reported an amount in respect of the individual's pension adjustment, nil, and

(*b*) otherwise, the amount reported by the person in respect of the individual's pension adjustment,

the person shall, within 60 days after the day on which paragraph 8308(4)(*d*) or (5)(*c*), as the case may be, applies to alter the pension adjustment, file with the Minister an information return in prescribed form reporting the redetermined amount.

PAST SERVICE PENSION ADJUSTMENT

8402. Where a provisional PSPA (computed under section 8303, 8304 or 8308) of an individual in respect of an employer associated with a past service event (other than a certifiable past service event) is greater than nil, the administrator of each registered pension plan to which the past service event relates shall, within 60 days after the day on which the past service event occurs, file with the Minister an information return in prescribed form reporting such portion of

(*a*) the aggregate of all amounts each of which is the individual's PSPA in respect of an employer associated with the past service event

as

(*b*) may reasonably be considered to be attributable to benefits provided under the plan,

except that a return is not required to be filed by an administrator if the amount that would otherwise be reported by the administrator is nil.

CONNECTED PERSONS

8403. Where, at any particular time after 1990,

(*a*) an individual becomes a member of a registered pension plan, or (*b*) lifetime retirement benefits commence to accrue to the individual under a defined benefit provision of a registered pension plan following a period in which lifetime retirement benefits did not accrue to the individual,

each employer who participates in the plan for the benefit of the individual and with whom the individual is connected (within the meaning assigned by subsection 8500(3)) at the particular time, or was connected at any time after 1989, shall, within 60 days after the particular time, file with the Minister an information return in prescribed form containing prescribed information with respect to the individual unless the employer has previously filed an information return under this section in respect of the individual.

REPORTING TO INDIVIDUALS

8404.(1) Every person required by section 8401 to file an information return with the Minister shall, on or before the day on or before which the return is required to be filed with the Minister, forward to each individual to whom the return relates, two copies of the portion of the return relating to that individual.

(2) Every person required by section 8402 or 8403 to file an information return with the Minister shall, on or before the day on or before which the return is required to be filed with the Minister, forward to each individual to whom the return relates, one copy of the portion of the return relating to that individual.

(3) Every person who obtains a certification from the Minister for the purposes of subsection 147.1(10) of the Act as it applies with respect to a past service event and an individual shall, within 60 days after receiving from the Minister the form submitted to the Minister pursuant to subsection 8307(1) in respect of the past service event and the individual, forward to the individual one copy of the form as returned by the Minister.

(4) Every person required by subsection (1), (2) or (3) to forward a copy of an information return or a form to an individual shall send the copy to the individual at the individual's last known address or shall deliver the copy to the individual in person.

DISCONTINUANCE OF BUSINESS

8405. Subsection 205(2) and section 206 are applicable, with such modifications as the circumstances require, in respect of returns required to be filed under this Part.

PROVISION OF INFORMATION

8406.(1) Where a person who is required to file an information return under section 8401 requires information from another person in order to determine an amount that is to be reported or to otherwise complete the return and makes a written request to the other person for the information, the other person shall provide the person with the information that is available to that other person,

(*a*) where the information return is required to be filed in the calendar year in which the request is received, within 30 days after receipt of the request; or

(*b*) in any other case, by January 31 of the year immediately following the calendar year in which the request is received.

(2) Where the administrator of a registered pension plan requires information from a person in order to determine a provisional PSPA of an individual under section 8303, 8304 or 8308 and makes a written request to the person for the information, the person shall, within 30 days after receipt of the request, provide the administrator with the information that is available to the person.

(3) Where the administrator of a registered pension plan requires information from a person in order to complete an information return required to be filed under section 8409 and makes a written request to the person for the information, the person shall, within 30 days after receipt of the request, provide the administrator with the information that is available to that person.

QUALIFYING WITHDRAWALS

8407. Where

(*a*) an individual who has withdrawn an amount from a registered retirement savings plan under which the individual was the annuitant (within the meaning assigned by paragraph 146(1)(*a*) of the Act) at the time of the withdrawal provides to the issuer (within the meaning assigned by paragraph 146(1)(*c*.1) of the Act) of the plan, in the calendar year in which the amount was withdrawn or in either of the two immediately following calendar years, the prescribed form referred to in subparagraph 8307(3)(*a*)(iii) accompanied by a request that the issuer complete the form in respect of the withdrawal, and

(*b*) the issuer has not, at the time of the receipt of the request, forwarded to the individual two copies of the information return required by subsection 214(1) to be made by the issuer in respect of the withdrawal, and does not within 30 days after receipt of the request forward to the individual two copies of that return,

the issuer shall, within 30 days after receipt of the request, complete those portions of the form that the form indicates are required to be completed by the issuer in respect of the withdrawal and return the form to the individual.

REQUIREMENT TO PROVIDE INFORMATION TO MINISTER

8408.(1) The Minister may, by notice served personally or by registered or certified mail, require that any person provide to the Minister, within such reasonable time as is stipulated in the notice,

(*a*) information relating to the determination of amounts under Part LXXXIII;

(*b*) where the person claims that paragraph 147.1(10)(*a*) of the Act is not applicable with respect to an individual and a past service event by reason of an exemption provided by regulation, information relevant to the claim; or

(*c*) information for the purpose of determining whether the registration of a pension plan may be revoked.

(2) Where a person fails to provide information to the Minister pursuant to a requirement under subsection (1), each registered pension plan and deferred profit sharing plan to which the information relates becomes a revocable plan as of the day on or before which the information was required to be provided.

ANNUAL INFORMATION RETURN

8409.(1) Subject to subsection (2), the administrator of a registered pension plan shall, on or before June 30 in each calendar year after 1990, file with the Minister an information return for the preceding calendar year in prescribed form and containing prescribed information.

(2) Where a final distribution of property held in connection with a registered pension plan is made in a particular calendar year, the administrator of the plan shall file the return required by subsection (1) for the preceding year on or before the earlier of June 30 of the particular year and the day that is 60 days after the final distribution of property.

(3) The administrator of a registered pension plan shall, within 60 days after the final distribution of property held in connection with the plan, file with the Minister an information return in prescribed form and containing prescribed information.

ACTUARIAL REPORTS

8410. The administrator of a registered pension plan that contains a defined benefit provision shall, on demand from the Minister served personally or by registered or certified mail and within such reasonable time as is stipulated in the demand, file with the Minister a report prepared by an actuary on the basis of reasonable assumptions and in accordance with generally accepted actuarial principles and containing such information as is required by the Minister with respect to the defined benefit provisions of the plan.

PART LXXXV
REGISTERED PENSION PLANS

INTERPRETATION

8500.(1) In this Part,

"active member" of a pension plan in a calendar year means a member of the plan to whom benefits accrue under a defined benefit provision of the plan in respect of all or any portion of the year or who makes contributions, or on whose behalf contributions are made, in relation to the year under a money purchase provision of the plan; (*participant actif*)

"average Consumer Price Index" for a calendar year means the amount obtained by dividing by 12 the aggregate of all amounts each of which is the Consumer Price Index for a month in the 12 month period ending on September 30 of the immediately preceding calendar year; (*moyenne de l'indice des prix à la consommation*)

"beneficiary" of an individual means any person who has a right, by virtue of the participation of the individual in a pension plan, to receive benefits under the plan after the death of the individual; (*bénéficiaire*)

"benefit provision" of a pension plan means a money purchase or defined benefit provision of the plan; (*version anglaise seulement*)

"bridging benefits" provided to a member under a benefit provision of a pension plan means retirement benefits payable to the member under the provision for a period ending no later than a date determinable at the time the benefits commence to be paid; (*prestation de raccordement*)

"Consumer Price Index" for a month means the Consumer Price Index for the month as published by Statistics Canada under the authority of the Statistics Act; (*indice des prix à la consommation*)

"defined benefit limit" for a calendar year means,

(*a*) for years before 1995, $1,722.22, and

(*b*) for years after 1994, 1/9 of the money purchase limit for the year; (*plafond des prestations déterminées*)

"dependant" of an individual at the time of the individual's death means a parent, grandparent, brother, sister, child or grandchild of the individual who, at that time, is both dependent on the individual for support and

(*a*) under 19 years of age and will not attain 19 years of age in the calendar year that includes that time,

(*b*) in full-time attendance at an educational institution, or (*c*) dependent on the individual by reason of mental or physical infirmity; (*personne à charge*)

"disabled" means, in relation to an individual, suffering from a physical or mental impairment that prevents the individual from performing the duties of the employment in which the individual was engaged before the commencement of the impairment; (*invalide*)

"eligible period of reduced pay" of an employee with respect to an employer means a period (other than a period in which the employee is, at any time after 1990, connected with the employer or a period any part of which is a period of disability of the employee)

(*a*) that commences after the employee has been employed by the employer or predecessor employers to the employer for not less than 36 months,

(*b*) throughout which the employee renders services to the employer, and

(*c*) throughout which the remuneration received by the employee from the employer is less than the remuneration that it is reasonable to expect the employee would have received from the employer had the employee rendered services throughout the period on a regular basis (having regard to the services rendered by the employee to the employer before the period) and had the employee's rate of remuneration been commensurate with the employee's rate of remuneration before the period; (*période admissible de salaire réduit*)

"eligible period of temporary absence" of an individual with respect to an employer means a period throughout which the individual does not render services to the employer by reason of leave of absence, layoff, strike, lock-out or any other circumstance acceptable to the Minister, other than a period

(*a*) any part of which is a period of disability of the individual, or

(*b*) in which the individual is, at any time after 1990, connected with the employer; (*période admissible d'absence temporaire*)

"eligible survivor benefit period" in relation to a person who is a dependant of an individual at the time of the individual's death means the period commencing on the day of death of the individual and ending on the latest of such of the following days as are applicable:

(*a*) where the dependant is under 19 years of age throughout the calender year that includes the day of death of the individual, the earlier of

(i) December 31 of the calendar year in which the dependant attains 18 years of age, and

(ii) the day of death of the dependant,

(*b*) where the dependant is in full-time attendance at an educational institution on the later of the day of death of the individual and December 31 of the calendar year in which the dependant attains 18 years of age, the day on which the dependant ceases to be a person in full-time attendance at an educational institution, and

(*c*) where the dependant is dependent on the individual at the time of the individual's death by reason of mental or physical infirmity, the day on which the dependant ceases to be infirm or, if there is no such day, the day of death of the dependant; (*période admissible de prestations au survivant*)

"existing plan" means a pension plan that was a registered pension plan on March 27, 1988 or in respect of which an application for registration was made to the Minister before March 28, 1988, and includes a pension plan established before March 28, 1988 pursuant to an Act of the Parliament of Canada that deems member contributions to be contributions to a registered pension plan; (*régime existant*)

"forfeited amount" under a money purchase provision of a pension plan means an amount to which a member of the plan has ceased to have any rights, other than the portion thereof, if any, that is payable

(*a*) to a beneficiary of the member as a consequence of the member's death, or

(*b*) to a spouse or former spouse of the member as a consequence of the breakdown of their marriage or other conjugal relationship, (*montant perdu*) "grandfathered plan" means

(*a*) an existing plan that, on March 27, 1988, contained a defined benefit provision, or

(*b*) a pension plan established to provide benefits under a defined benefit provision to one or more individuals in lieu of benefits to which the individuals were entitled under a defined benefit provision of a grandfathered plan, whether or not benefits are also provided to other individuals; (*régime exclu*)

"lifetime retirement benefits" provided to a member under a benefit provision of a pension plan means retirement benefits provided to the member under the provision that, after they commence to be paid, are payable to the member until the member's death, unless the benefits are commuted or payment of the benefits is suspended; (*prestation viagère*)

"multi-employer plan" in a calendar year means

(*a*) a pension plan in respect of which it is reasonable to expect, at the beginning of the year (or at the time in the year when the plan is established, if later), that at no time in the year will more than 95% of the active members of the plan be employed by a single participating employer or by a related group of participating employers, other than a plan where it is reasonable to consider that one of the main reasons why there is more than one employer participating in the plan is to obtain the benefit of any of the provisions of the Act or these regulations that are applicable only with respect to multi-employer plans, or

(*b*) a pension plan that is, in the year, a specified multi-employer plan,

and for the purposes of this definition, two corporations that are related to each other solely by reason that they are both controlled by Her Majesty in right of Canada or a province shall be deemed not to be related persons; (*régime interentreprises*)

"pensionable service" of a member of a pension plan under a defined benefit provision of the plan means the periods in respect of which lifetime retirement benefits are provided to the member under the provision; (*services validables*)

"period of disability" of an individual means a period throughout which the individual is disabled; (*période d'invalidité*)

"predecessor employer" means, in relation to a particular employer, an employer (in this definition referred to as the "vendor") who has sold, assigned or otherwise disposed of all or part of the vendor's business or undertaking or all or part of the assets of the vendor's business or undertaking to the particular employer or to another employer who, at any time after the sale, assignment or other disposition, becomes a predecessor employer in relation to the particular employer, where one or more employees of the vendor have, in conjunction with the sale, assignment or disposition, become employees of the employer acquiring the business, undertaking or assets; (*employeur remplacé*)

"public pension benefits" means amounts payable on a periodic basis under the *Canada Pension Plan*, a provincial pension plan as defined in section 3 of the *Canada Pension Plan*, or Part I of the *Old Age Security Act*, but does not include disability, death or survivor benefits provided thereunder; (*prestation de pension de l'État*)

"public safety occupation" means the occupation of being a

(*a*) firefighter,

(*b*) police officer,

(*c*) corrections officer,

(*d*) air traffic controller, or

(*e*) commercial airline pilot; (*profession liée à la sécurité publique*)

"retirement benefits" provided to an individual under a benefit provision of a pension plan means benefits provided to the individual under the provision that are payable on a periodic basis; (*prestation de retraite*)

"surplus" under a money purchase provision of a pension plan at any time means such portion, if any, of the amount held at that time in respect of the provision as has not been allocated to members and is not reasonably attributable to (*a*) forfeited amounts under the provision,

(*b*) earnings of the plan that are reasonably attributable to forfeited amounts under the provision, or

(*c*) earnings of the plan (other than earnings that are reasonably attributable to the surplus under the provision before that time) that will be allocated to members as part of the regular allocation of such earnings; (*surplus*)

"totally and permanently disabled" means, in relation to an individual, suffering from a physical or mental impairment that prevents the individual from engaging in any employment for which the individual is reasonably suited by virtue of the individual's education, training or experience and that can reasonably be expected to last for the remainder of the individual's lifetime; (*invalidité totale et permanente*)

"Year's Maximum Pensionable Earnings" for a calendar year has the meaning assigned by section 18 of the *Canada Pension Plan*. (*maximum des gains annuels ouvrant droit à pension*)

(2) All words and expressions used in this Part that are defined in subsection 147.1(1) of the Act have the meanings assigned therein.

(3) For the purposes of this Part, a person is connected with an employer at any time if, at that time, the person

(*a*) owns, directly or indirectly, not less than 10% of the issued shares of any class of the capital stock of the employer or of any other corporation that is related to the employer,

(*b*) does not deal at arm's length with the employer, or

(*c*) is a specified shareholder of the employer by reason of paragraph (*d*) of the definition "specified shareholder" in subsection 248(1) of the Act,

and for the purposes of this subsection,

(*d*) a person shall be deemed to own, at any time, each share of the capital stock of a corporation owned, at that time, by a person with whom the person does not deal at arm's length, (*e*) where shares of the capital stock of a corporation are owned at any time by a trust,

(i) if the share of any beneficiary in the income or capital of the trust depends upon the exercise by any person of, or the failure by any person to exercise, any discretionary power, each beneficiary of the trust shall be deemed to own, at that time, all the shares owned by the trust, and

(ii) in any other case, each beneficiary of a trust shall be deemed to own, at that time, that proportion of the shares owned by the trust that the fair market value at that time of the beneficiary's beneficial interest in the trust is of the fair market value at that time of all beneficial interests in the trust,

(*f*) each member of a partnership shall be deemed to own, at any time, that proportion of all shares of the capital stock of a corporation that are property of the partnership at that time that the fair market value at that time of the member's interest in the partnership is of the fair market value at that time of the interests of all members in the partnership, and

(*g*) a person who, at any time, has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares of the capital stock of a corporation shall be deemed to own, at that time, those shares if one of the main reasons for the existence of the right may reasonably be considered to be that the person not be connected with an employer.

(4) For the purposes of this Part and the definition "employment" in subsection 248(1) of the Act as it applies for the purposes of this Part, an officer who receives remuneration for holding an office shall, for any period that the officer holds the office, be deemed to render services to, and to be in the service of, the person from whom the officer receives the remuneration.

(5) For the purposes of this Part, "spouse" includes a party to a voidable or void marriage.

(6) Where this Part provides that an amount is to be determined by aggregating the durations of periods that satisfy specified conditions, a

period shall be included in determining the aggregate only if it is not part of a longer period that satisfies the conditions.

PRESCRIBED CONDITIONS FOR REGISTRATION AND OTHER CONDITIONS APPLICABLE TO REGISTERED PENSION PLANS

Conditions for Registration

8501.(1) For the purposes of section 147.1 of the Act, and subject to sections 8509 and 8510, the prescribed conditions for the registration of a pension plan are

(*a*) the conditions in paragraphs 8502(*a*), (*c*), (*e*), (*f*) and (*l*),

(*b*) if the plan contains a defined benefit provision, the conditions in paragraphs 8503(4)(*a*) and (*c*), and

(*c*) if the plan contains a money purchase provision, the conditions in paragraphs 8506(2)(*a*) and (*d*),

and the following conditions:

(*d*) there is no reason to expect, on the basis of the documents constituting the plan and establishing the funding arrangements that

(i) the plan may become a revocable plan pursuant to subsection (2), or

(ii) the conditions in subsection 147.1(10) of the Act may not be complied with; and

(*e*) there is no reason to expect that the plan may become a revocable plan pursuant to subsection 147.1(8) or (9) of the Act or subsection 8503(15).

Conditions Applicable to Registered Pension Plans

(2) For the purposes of paragraph 147.1(11)(*c*) of the Act, and subject to sections 8509 and 8510, a registered pension plan becomes a revocable plan at any time that it fails to comply

(*a*) with a condition in any of paragraphs 8502(*b*), (*d*) and (*g*) to (*k*);

(*b*) where the plan contains a defined benefit provision, with a condition in paragraph 8503(3)(*a*), (*b*), (*d*), (*j*), (*k*) or (*l*) or 8503(4)(*b*), (*d*), (*e*) or (*f*); or

(*c*) where the plan contains a money purchase provision, with a condition in any of paragraphs 8506(2)(*b*), (*c*) and (*e*) to (*h*).

Permissive Rules

(3) The conditions in this Part do not apply with respect to a pension plan to the extent that the conditions are inconsistent with subsections 8503(6) and (8) and 8505(3).

Supplemental Plans

(4) Where

(*a*) the benefits provided under a pension plan (in this subsection referred to as the "supplemental plan") that contains one defined benefit provision and no money purchase provisions may reasonably be considered to be supplemental to the benefits provided under a defined benefit provision (in this subsection referred to as the "base provision") of another pension plan,

(*b*) the supplemental plan does not otherwise comply with the condition in paragraph 8502(*a*) or the condition in paragraph 8502(*c*), and

(*c*) the Minister has approved the application of this subsection, which approval has not been withdrawn,

for the purpose of determining whether the supplemental plan complies with the conditions in paragraphs 8502(*a*) and (*c*), the benefits provided under the base provision shall be considered to be provided under the supplemental plan.

Benefits Payable to Spouse After Marriage Breakdown

(5) Where

(*a*) a spouse or former spouse of a member of a registered pension plan is entitled to receive all or any portion of the benefits that would otherwise be payable under the plan to the member, and

(*b*) such entitlement was created

(i) by assignment of benefits by the member in settlement of rights arising out of or on a breakdown of their marriage or other conjugal relationship, or

(ii) by a provision of the law of Canada or a province applicable with respect to the division of property between the member and the member's spouse or former spouse in settlement of rights arising out of or on a breakdown of their marriage or other conjugal relationship,

the following rules apply:

(*c*) except where paragraph (*d*) is applicable, the benefits to which the spouse or former spouse is entitled shall, for the purposes of this Part, be deemed to be benefits provided and payable to the member, and

(*d*) where

(i) the entitlement of the spouse or former spouse was created by a provision of the law of Canada or a province described in subparagraph (*b*)(ii), and

(ii) the provision

(A) requires that benefits commence to be paid to the spouse or former spouse at a time that may be different from the time at which benefits commence to be paid to the member, or

(B) gives the spouse or former spouse any rights with respect to the benefits to which he or she is entitled in addition to the rights that he or she would have as a consequence of an assignment by the member, in whole or in part, of the member's right to benefits under the plan,

the benefits to which the spouse or former spouse is entitled shall, for the purposes of this Part, be deemed to be benefits provided and payable to the spouse or former spouse and not provided or payable to the member.

Indirect Contributions

(6) Where employers or individuals make payments to a trade union or association of employers (in this subsection referred to as the "contributing entity") to enable the contributing entity to make contributions to a pension plan, such portion of a contribution made by the contributing entity to the plan as is reasonably attributable to a payment made to the contributing entity by an employer or individual shall, for the purposes of the conditions in this Part, be considered to be a contribution made by the employer or individual, as the case may be, and not by the contributing entity.

CONDITIONS APPLICABLE TO ALL PLANS

8502. For the purposes of section 8501, the following conditions are applicable with respect to a pension plan:

Primary purpose

(a) the primary purpose of the plan is to provide periodic payments to individuals after retirement and until death in respect of their service as employees;

Permissible contributions

(*b*) each contribution made to the plan after 1990 is

(i) an amount paid by a member of the plan in accordance with the plan as registered, where the amount is credited to the member's account under a money purchase provision of the plan or is paid in respect of the member's benefits under a defined benefit provision of the plan,

(ii) an amount paid in accordance with a money purchase provision of the plan as registered, by an employer in respect of the employer's employees or former employees,

(iii) an amount that is an eligible contribution paid in respect of a defined benefit provision of the plan by an employer in respect of the employer's employees or former employees,

(iv) an amount transferred to the plan in accordance with any of subsections 146(16), 147(19) and 147.3(1) to (8) of the Act, or

(v) an amount acceptable to the Minister transferred to the plan from a pension plan that is maintained primarily for the benefit of non-residents in respect of services rendered outside Canada,

and, for the purposes of this paragraph,

(vi) an eligible contribution is a contribution paid by an employer in respect of a defined benefit provision of a pension plan where it is an eligible contribution under subsection 147.2(2) of the Act or, in the case of a plan in which Her Majesty in right of Canada or a province is a participating employer, would be an eligible contribution under subsection 147.2(2) of the Act if all amounts held to the credit of the plan in the accounts of Canada or the province were excluded from the assets of the plan, and

(vii) such portion of the contributions made by Her Majesty in right of Canada or a province in respect of a defined benefit provision of the plan as can reasonably be considered to be made in respect of the employees or former employees of another person shall be deemed to be contributions made by that other person;

Permissible benefits

(*c*) the plan does not provide, and its terms are such that it will not under any circumstances provide, any benefits other than

(i) benefits that are provided under one or more defined benefit provisions and are in accordance with subsection 8503(2), paragraphs 8503(3)(*c*) and (*e*) to (*i*) and section 8504,

(ii) benefits that are provided under one or more money purchase provisions and are in accordance with subsection 8506(1),

(iii) benefits that the plan is required to provide by reason of a designated provision of the law of Canada or a province, or that the plan would be required to provide if each such provision were applicable to the plan in respect of all its members, and

(iv) benefits that the plan is required to provide to a spouse or former spouse of a member of the plan by reason of a provision of the law of Canada or a province applicable with respect to the division of property between the member and the spouse or former spouse of the member in settlement of rights arising out of or on a breakdown of their marriage or other conjugal relationship;

Permissible distributions

(*d*) each distribution made from the plan is

(i) a payment of benefits in accordance with the plan as registered,

(ii) a transfer of property held in connection with a defined benefit provision of the plan to another pension plan to be held in connection with a benefit provision of that other plan, where the transfer is in accordance with subsection 147.3(3) or (8) of the Act,

(iii) a return of all or any portion of the contributions made by a member of the plan or an employer who participates in the plan where the payment is made to avoid the revocation of the registration of the plan,

(iv) a return of all or any portion of the contributions made by a member of the plan under a defined benefit provision of the plan, where the return of contributions is pursuant to an amendment to the plan that also reduces the future contributions that would otherwise be required to be made under the provision by members,

(v) a payment of interest (computed at a rate not exceeding a reasonable rate) in respect of contributions that are returned as described in subparagraph (iv),

(vi) a payment in full or partial satisfaction of the interests of a person in an actuarial surplus relating to a defined benefit provision of the plan, or

(vii) a payment to an employer of property held in connection with a money purchase provision of the plan;

Payment of pension

(*e*) the plan

(i) requires that the retirement benefits of a member under each benefit provision of the plan commence to be paid not later than

(A) the end of the calendar year in which the member attains 71 years of age, or

(B) in the case of benefits provided under a defined benefit provision, such later time as is acceptable to the Minister, but only if the amount of benefits payable for each period does not exceed the amount of benefits that would be payable for the period if payment of the benefits commenced at the time referred to in clause (A), and

(ii) provides that retirement benefits under each benefit provision are payable not less frequently than annually;

Assignment of rights

(*f*) the plan includes a stipulation that no right of a person under the plan is capable of being assigned, charged, anticipated, given as security or surrendered, and, for the purposes of this condition,

(i) assignment does not include

(A) assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising as a consequence of the breakdown of a marriage or other conjugal relationship between an individual and the individual's spouse or former spouse, or

(B) assignment by the legal representative of a deceased individual on the distribution of the individual's estate, and

(ii) surrender does not include a reduction in benefits to avoid the revocation of the registration of the plan;

Funding media

(*g*) the arrangement under which property is held in connection with the plan is acceptable to the Minister;

Investments

(*h*) the property held in connection with the plan does not include

(i) a prohibited investment under subsection 8514(1),

(ii) at any time that the plan is subject to the *Pension Benefits Standards Act, 1985* or a similar law of a province, an investment that is not permitted at that time under such laws as apply to the plan, or

(iii) at any time other than a time referred to in subparagraph (ii), an investment that would not be permitted were the plan subject to the *Pension Benefits Standards Act, 1985*;

Borrowing

(*i*) a trustee or other person who holds property in connection with the plan does not borrow money for the purposes of the plan except where

(i) the borrowing is for a term not exceeding 90 days,

(ii) the borrowing is not part of a series of loans or other transactions and repayments, and

(iii) none of the property held in connection with the plan is used as security for the borrowed money (except where the borrowing is necessary to provide funds for the current payment of benefits or the purchase of annuities under the plan without resort to a distressed sale of the property held in connection with the plan), or where

(iv) the money is borrowed for the purpose of acquiring real property that may reasonably be considered to be acquired for the purpose of producing income from property,

(v) the aggregate of all amounts borrowed for the purpose of acquiring the property and any indebtedness incurred as a consequence of the acquisition of the property does not exceed the cost to the person of the property, and

(vi) none of the property held in connection with the plan, other than the real property, is used as security for the borrowed money;

Determination of amounts

(*j*) except as otherwise provided in this Part, each amount determined in connection with the plan is determined, where the amount is based on assumptions, using such reasonable assumptions as are acceptable to the Minister, and, where actuarial principles are applicable to the determination, in accordance with generally accepted actuarial principles;

Transfer of property between provisions

(*k*) property held in connection with a benefit provision of the plan is not made available to pay benefits under another benefit provision of the plan (including another benefit provision that replaces the first benefit provision) except where the transaction by which the property is made so available is such that if the benefit provisions were in separate registered pension plans, the transaction would constitute a transfer of property from one plan to the other in accordance with any of subsections 147.3(1) to (4), (6) and (8) of the Act; and

Appropriate pension adjustments

(*l*) the plan terms are not such that an amount determined under Part LXXXIII with respect to the plan may be inappropriate having regard to the provisions of that Part read as a whole and the purposes for which the amount is determined.

DEFINED BENEFIT PROVISIONS

Net Contribution Account

8503.(1) In this section and subsection 8517(2), the net contribution account of a member of a pension plan in relation to a defined benefit provision of the plan is an account that is

(*a*) credited with

(i) the amount of each contribution made by the member to the plan in respect of the provision,

(ii) each amount transferred on behalf of the member to the plan in respect of the provision in accordance with any of subsections 146(16), 147(19), 147.3(2) and 147.3(5) to (7) of the Act,

(iii) such portion of each amount transferred to the plan in respect of the provision in accordance with subsection 147.3(3) of the Act as may reasonably be considered to derive from contributions made by the member to a registered pension plan or interest (computed at a reasonable rate) in respect of such contributions,

(iv) the amount of any property that was held in connection with another benefit provision of the plan and that has been made available to provide benefits under the provision, to the extent that if the provisions were in separate registered pension plans, the amount would be included in the member's net contribution account by reason of subparagraph (ii) or (iii), and

(v) interest (computed at a reasonable rate determined by the plan administrator) in respect of each period throughout which the account has a positive balance; and

(*b*) charged with

(i) each amount paid under the provision in respect of the member,

(ii) the amount of any property held in connection with the provision that is made available to provide benefits in respect of the member under another benefit provision of the plan, and

(iii) interest (computed at a reasonable rate determined by the plan administrator) in respect of each period throughout which the account has a negative balance.

Permissible Benefits

(2) For the purposes of paragraph 8502(*c*), the following benefits may, subject to the conditions specified in respect of each benefit, be provided under a defined benefit provision of a pension plan:

Lifetime retirement benefits

(*a*) lifetime retirement benefits provided to a member where the benefits are payable in equal periodic amounts, or are not so payable only by reason that

(i) the benefits payable to a member after the death of the member's spouse are less than the benefits that would be payable to the member were the member's spouse alive,

(ii) the plan provides for periodic cost-of-living adjustments to be made to the benefits, where the adjustments

(A) are determined in such a manner that they do not exceed cost-of-living adjustments warranted by increases in the Consumer Price Index after the benefits commence to be paid,

(B) consist of periodic increases at a rate not exceeding 4 per cent per annum from the time the benefits commence to be paid,

(C) are based on the rates of return on a specified pool of assets after the benefits commence to be paid, or

(D) consist of any combination of adjustments described in clauses (A) to (C),

and, in the case of adjustments described in clauses (C) and (D), the present value (at the time the member's benefits commence to be paid) of additional benefits that can reasonably be expected to be paid as a consequence of the adjustments does not exceed the greater of

(E) the present value (at the time the member's benefits commence to be paid) of additional benefits that could reasonably be expected to be paid as a consequence of adjustments warranted by increases in the Consumer Price Index after the member's benefits commence to be paid, and

(F) the present value (at the time the member's benefits commence to be paid) of additional benefits that would be paid as a consequence of adjustments at a fixed rate of 4 per cent per annum from the time the member's benefits commence to be paid, or

(iii) where the plan does not provide for periodic cost-of-living adjustments to be made to the benefits, or provides only for such adjustments as are described in clause (ii)(A) or (B), the plan provides for cost-of-living adjustments to be made to the benefits from time to time at the discretion of any person where the adjustments, together with periodic cost-of-living adjustments, if any, are warranted by increases in the Consumer Price Index after the benefits commence to be paid;

Bridging benefits

(*b*) bridging benefits provided to a member where

(i) the bridging benefits are payable for a period commencing no earlier than the time that lifetime retirement benefits commence to be paid under the provision to the member and ending no later than the end of the month immediately following the month in which the member attains 65 years of age, and

(ii) the amount of the bridging benefits payable for a particular month does not exceed the amount determined for the particular month by the formula

$$A \times (1 - .0025 \times B) \times C \times \frac{D}{10}$$

where

A is the amount (or a reasonable estimate thereof) of public pension benefits that would be payable to the member for the month in which the bridging benefits commence to be paid to the member if

(A) the member were 65 years of age throughout that month,

(B) that month were the first month for which public pension benefits were payable to the member,

(C) the member were entitled to the maximum amount of benefits payable under the *Old Age Security Act*, and

(D) the member were entitled to that proportion, not exceeding one, of the maximum benefits payable under the *Canada Pension Plan* (or a provincial plan as defined in section 3 of the *Canada Pension Plan*) that the total of the member's remuneration for the three calendar years in which the remuneration is the highest is of the total of the Year's Maximum Pensionable Earnings for those three years (or such other proportion of remuneration to Year's Maximum Pensionable Earnings as is acceptable to the Minister),

B is,

(A) except where clause (B) is applicable, the number of months, if any, from the date that the bridging benefits commence to be paid to the member to the date that the member attains 60 years of age, and

(B) where the member is totally and permanently disabled at the time at which the bridging benefits commence to be paid to the member and the member was not, at any time after 1990, connected with an employer who has participated in the plan, nil,

C is the greatest of all amounts each of which is the ratio of the Consumer Price Index for a month not before the month in which the bridging benefits commence to be paid to the member and not after the particular month, to the Consumer

Price Index for the month in which the bridging benefits commence to be paid to the member, and

D is

(A) except where clause (B) is applicable, the lesser of 10 and

(I) where the member was not, at any time after 1990, connected with an employer who has participated in the plan, the aggregate of all amounts each of which is the duration (measured in years, including any fraction of a year) of a period that is pensionable service of the member under the provision, and

(II) in any other case, the aggregate that would be determined under subclause (I) if the duration of each period were multiplied by a fraction (not greater than one) that measures the services rendered by the member throughout the period to employers who participate in the plan as a proportion of the services that would have been rendered by the member throughout the period to such employers had the member rendered services on a full-time basis, and

(B) where the member is totally and permanently disabled at the time at which the bridging benefits commence to be paid to the member and the member was not, at any time after 1990, connected with an employer who has participated in the plan, 10;

Guarantee period

(*c*) retirement benefits (in this paragraph referred to as "continued retirement benefits") provided to one or more beneficiaries of a member who dies after retirement benefits under the provision commence to be paid to the member where

(i) the continued retirement benefits are payable for a period commencing after the death of the member and ending

(A) if retirement benefits permissible under paragraph (d) are provided under the provision to a spouse or former spouse of the member, no later than 5 years, and

(B) in any other case, no later than 15 years

after the day on which retirement benefits commence to be paid under the provision to the member, and

(ii) the aggregate amount of continued retirement benefits payable under the provision for each month does not exceed the amount of retirement benefits that would have been payable under the provision for the month to the member if the member were alive;

Post-retirement survivor benefits

(*d*) retirement benefits (in this paragraph referred to as "survivor retirement benefits") provided to one or more beneficiaries of a member who dies after retirement benefits under the provision commence to be paid to the member where

(i) each beneficiary is either a spouse or former spouse of the member or a dependant of the member at the time of the member's death,

(ii) the survivor retirement benefits provided to a spouse or former spouse are payable for a period commencing after the death of the member and ending with the death of the spouse, or a former spouse, as the case may be,

(iii) the survivor retirement benefits provided to a dependant are payable for a period commencing after the death of the member and ending no later than the end of the dependant's eligible survivor benefit period,

(iv) the amount of survivor retirement benefits payable for each month to a beneficiary does not exceed 66 2/3% of the amount of retirement benefits that would have been payable under the provision for the month to the member if the member were alive, and

(v) the aggregate amount of survivor retirement benefits and other retirement benefits payable under the provision for each month to beneficiaries of the member does not exceed the amount of retirement benefits that would have been payable under the provision for the month to the member if the member were alive;

Pre-retirement survivor benefits

(*e*) retirement benefits (in this paragraph referred to as "survivor retirement benefits") provided to one or more beneficiaries of a member who dies before retirement benefits under the provision commence to be paid to the member where

(i) no other benefits (other than benefits permissible under paragraphs (*g*), (*j*) and (*n*)) are payable as a consequence of the member's death,

(ii) each beneficiary is either a spouse or former spouse of the member or a dependant of the member at the time of the member's death,

(iii) the survivor retirement benefits provided to a spouse or former spouse are payable for a period commencing after the death of the member and ending with the death of the spouse, or former spouse, as the case may be,

(iv) the survivor retirement benefits provided to a dependant are payable for a period commencing after the death of the member and ending no later than the end of the dependant's eligible survivor benefit period,

(v) the amount of survivor retirement benefits payable for a month to a beneficiary does not exceed 66 2/3% of the amount determined in respect of the month by the formula under subparagraph (vi), and

(vi) the aggregate amount of survivor retirement benefits payable under the provision for a particular month to beneficiaries of the member does not exceed the amount determined for the particular month by the formula

$$\frac{(A + B)}{12} \times C$$

where

A is the amount (expressed on an annualized basis) of lifetime retirement benefits accrued under the provision to the member as of the member's day of death, determined without any reduction computed by reference to the member's age, duration of service or both, and without any other similar reduction,

B is, in the case of a member who attains 65 years of age before the member's death or who was, at any time after 1990, connected with an employer who has participated in the plan, nil, and otherwise the amount, if any, by which the lesser of

(A) the amount (expressed on an annualized basis) of lifetime retirement benefits that could reasonably be expected to have accrued to the member to the day on which the member would have attained 65 years of age if the member had survived to that day and continued in employment and if the member's rate of remuneration had not increased after the member's day of death, and

(B) the amount, if any, by which 3/2 of the Year's Maximum Pensionable Earnings for the calendar year in which the member dies exceeds such amount as is required by the Minister to be determined in respect of benefits provided, as a consequence of the death of the member, under other benefit provisions of the plan and under benefit provisions of other registered pension plans

exceeds the amount determined for A, and

C is the greatest of all amounts each of which is the ratio of the Consumer Price Index for a month not before the month in which the member dies and not after the particular month to the Consumer Price Index for the month in which the member dies;

Pre-retirement survivor benefits - alternative rule

(*f*) retirement benefits (in this paragraph referred to "surviving spouse benefits") provided to a beneficiary of a member who dies before retirement benefits under the provision commence to be paid to the member where

(i) no other benefits (other than benefits permissible under paragraphs (*g*), (*j*) and (*n*)) are payable as a consequence of the member's death,

(ii) the beneficiary is a spouse or former spouse of the member,

(iii) the surviving spouse benefits are payable for a period commencing not later than the later of

(A) one year after the day of death of the member, and

(B) the end of the calendar year in which the beneficiary attains 71 years of age

and ending with the death of the beneficiary,

(iv) the surviving spouse benefits would be in accordance with paragraph (*a*) if the surviving spouse were a member of the plan, and

(v) the present value (at the time of the member's death) of all benefits provided as a consequence of the member's death does not exceed the present value (immediately before the member's death) of all benefits accrued under the provision in respect of the member to the day of the member's death;

Pre-retirement survivor benefits - guarantee period

(*g*) retirement benefits provided to one or more individuals as a consequence of the death of a person who

(i) is a beneficiary of a member who died before retirement benefits under the provision commenced to be paid to the member,

(ii) was, at the time of the member's death, a spouse or former spouse of the member, and

(iii) dies after the member's death,

where the benefits would be in accordance with paragraph (*c*) if the person were a member of the plan;

Lump sum payments on termination

(*h*) the payment, in respect of a member in connection with the member's termination from the plan (otherwise than by reason of death), of one or more single amounts where

(i) the payments are the last payments to be made under the provision in respect of the member,

(ii) if subparagraph (iii) is not applicable, each single amount does not exceed the balance in the member's net contribution account immediately before the time of payment of the single amount, and

(iii) if

(A) the Minister has, pursuant to subsection (5), waived the application of the conditions in paragraph (4)(*a*) with respect to the provision, or

(B) the member's contributions under the provision for each calendar year after 1990 would have been in accordance with paragraph (4)(*a*) if the reference in clause (i)(B) thereof to "70%" were read as a reference to "50%",

each single amount does not exceed the amount that would be the balance in the member's net contribution account immediately before the time of payment of the single amount if, for each current service contribution made by the member under the provision, the account were credited with an additional amount equal to the amount of the contribution (other than the portion thereof, if any, paid in respect of one or more periods that were not periods of regular employment and that would not have been required to be paid by the member if the periods were periods of regular employment);

Payment of commuted value of benefits on death before retirement

(*i*) the payment of one or more single amounts to one or more beneficiaries of a member who dies before retirement benefits under the provision commence to be paid to the member where

(i) no retirement benefits are payable as a consequence of the member's death, and

(ii) the aggregate of all amounts, each of which is such a single amount (other than the portion thereof, if any, that can reasonably be considered to be interest, computed at a rate not exceeding a reasonable rate, in respect of the period from the day of death of the member to the day that the single amount is paid), does not exceed the present value, immediately before the death of the member, of all benefits accrued under the provision in respect of the member as of the day of the member's death;

Lump sum payments on death

(*j*) the payment of one or more single amounts after the death of a member where

(i) the payments are the last payments to be made under the provision in respect of the member,

(ii) if the member dies before retirement benefits under the provision commence to be paid to the member and no retirement benefits are payable as a consequence of the member's death, the aggregate amount to be paid at any time complies with whichever of the conditions in subparagraphs (*h*)(ii) and (iii) would be applicable if the single amounts were paid in connection with the member's termination from the plan otherwise than by reason of death, and

(iii) if subparagraph (ii) is not applicable, the aggregate amount to be paid at any time does not exceed the balance, immediately before that time, in the member's net contribution account in relation to the provision;

Additional post-retirement death benefits

(*k*) retirement benefits (in this paragraph referred to as "additional death benefits") payable after the death of a member who dies after retirement benefits under the provision commence to be paid to the member where the additional death benefits are

(i) retirement benefits provided to a spouse or former spouse of the member that are in excess of the benefits permissible under paragraph (*d*), but that would be permissible under that paragraph if the reference in subparagraph (iv) thereof to "66 2/3%" were read as a reference to "100%",

(ii) retirement benefits provided to one or more beneficiaries of the member that are in excess of the benefits permissible under paragraph (*c*), but that would be permissible under that paragraph if it were read without reference to clause (i)(A) thereof, or

(iii) a combination of retirement benefits described in subparagraphs (i) and (ii),

and where

(iv) the additional death benefits are provided in lieu of a proportion of the lifetime retirement benefits that would otherwise be payable under the provision to the member, and

(v) the present value (at the time at which retirement benefits under the provision commence to be paid to the member) of all benefits provided under the provision in respect of the member does not exceed the present value (at that time) of the benefits that would be so provided if

(A) the amount of the member's lifetime retirement benefits were determined without any reduction dependent on the benefits payable after the death of the member or on circumstances that are relevant in determining such death benefits, and

(B) the maximum amount of retirement benefits permissible under paragraph (*d*) were payable to the member's spouse or former spouse after the death of the member;

Additional bridging benefits

(*l*) bridging benefits in excess of bridging benefits permissible under paragraph (*b*) (which excess benefits are referred to in this paragraph as "additional bridging benefits") provided to a member where

(i) the additional bridging benefits would be permissible under paragraph (*b*) if the formula in subparagraph (ii) thereof were replaced by the formula "A x C",

(ii) the additional bridging benefits are provided in lieu of a proportion of the lifetime retirement benefits that would otherwise be payable under the provision to the member and any benefits related thereto payable after the death of the member, and

(iii) the present value (at the time at which retirement benefits under the provision commence to be paid to the member) of all benefits provided under the provision in respect of the member does not exceed the present value (at that time) of the benefits that would be so provided if the additional bridging benefits were not provided;

Commutation of benefits

(*m*) the payment in respect of a member of a single amount in full or partial satisfaction of the member's entitlement to other benefits under the provision, where the single amount does not exceed the present value (at the time the single amount is paid) of

(i) the other benefits that, as a consequence of the payment, cease to be provided, and

(ii) benefits, other than benefits referred to in subparagraph (i), that it is reasonable to consider would cease to be provided as a consequence of the payment if

(A) where retirement benefits have not commenced to be paid under the provision to the member at the time the single amount is paid, the plan provided for the retirement benefits accrued to the member under the provision to be adjusted to reflect the increase in a general measure of wages and salaries from that time to the day on which the benefits commence to be paid, and

(B) the plan provided for periodic cost-of-living adjustments to be made to the retirement benefits payable under the provision to the member to reflect increases in the Consumer Price Index after the retirement benefits commence to be paid (other than increases before the time the single amount is paid); and

Idem

(*n*) the payment, in respect of an individual after the death of a member, of a single amount in full or partial satisfaction of the individual's entitlement to other benefits under the provision, where

(i) the individual is a beneficiary of the member,

(ii) the single amount does not exceed the present value (at the time the single amount is paid) of the other benefits that, as a consequence of the payment, cease to be provided, and

(iii) if the other benefits in respect of which the single amount is paid include benefits described in paragraph (*e*) and the beneficiary was a spouse or former spouse of the member at the time of the member's death, the single amount is not transferred from the plan directly to another registered pension plan or a registered retirement savings plan except with the approval of the Minister.

Conditions Applicable to Benefits

(3) For the purposes of subsection 8501(2) and subparagraph 8502(*c*)(i), the following conditions are applicable with respect to the benefits provided under each defined benefit provision of a pension plan:

Eligible service

(*a*) the only lifetime retirement benefits provided under the provision to a member (other than additional lifetime retirement benefits provided to a member because the member is totally and permanently disabled at the time the member's retirement benefits commence to be paid) are lifetime retirement benefits provided in respect of one or more of the following periods:

(i) a period throughout which the member is employed in Canada by, and receives remuneration from, an employer who participates in the plan,

(ii) a period throughout which the member was employed in Canada by, and received remuneration from, a predecessor employer to an employer who participates in the plan,

(iii) an eligible period of temporary absence of the member with respect to an employer who participates in the plan or a predecessor employer to such an employer,

(iv) a period of disability of the member subsequent to a period described in subparagraph (i) where, throughout such part of the period of disability as is after 1990, the member is not connected with any employer who participates in the plan,

(v) a period in respect of which

(A) benefits attributable to employment of the member with a former employer accrued to the member under a defined benefit provision of another registered pension plan, or

(B) contributions were made by or on behalf of the member under a money purchase provision of another registered pension plan,

where the member has ceased to be a member of that other plan,

(vi) a period throughout which the member was employed in Canada by a former employer where the period was an eligibility period for the participation of the member in another registered pension plan, and

(vii) a period acceptable to the Minister throughout which the member is employed outside Canada;

Benefit accruals after pension commencement

(*b*) benefits are not provided under the provision (in this paragraph referred to as the "particular provision") to a member in respect of a period that is after the day on which retirement benefits commence to be paid to the member under a defined benefit provision of

(i) the plan, or

(ii) any other registered pension plan if

(A) an employer who participated under the particular provision for the benefit of the member, or

(B) an employer who does not deal at arm's length with an employer referred to in clause (A)

has participated under the defined benefit provision of the other plan for the benefit of the member;

Early retirement

(c) where lifetime retirement benefits commence to be paid under the provision to a member at any time before

(i) in the case of a member whose benefits are provided in respect of employment in a public safety occupation, the earliest of

(A) the day on which the member attains 55 years of age,

(B) the day on which the member has 25 years of early retirement eligibility service in relation to the provision,

(C) the day on which the aggregate of the member's age (measured in years, including any fraction of a year) and years of early retirement eligibility service in relation to the provision is equal to 75, and

(D) if the member was not, at any time after 1990, connected with any employer who has participated in the plan, the day on which the member becomes totally and permanently disabled, and

(ii) in any other case, the earliest of

(A) the day on which the member attains 60 years of age,

(B) the day on which the member has 30 years of early retirement eligibility service in relation to the provision,

(C) the day on which the aggregate of the member's age (measured in years, including any fraction of a year) and years of early retirement eligibility service in relation to the provision is equal to 80, and

(D) if the member was not, at any time after 1990, connected with any employer who has participated in the plan, the day on which the member becomes totally and permanently disabled,

the amount (expressed on an annualized basis) of lifetime retirement benefits payable to the member for each calendar year does not exceed the amount determined for the year by the formula

$$X \times (1 - .0025 \times Y)$$

where

X is the amount (expressed on an annualized basis) of lifetime retirement benefits that would be payable to the member for the year if the benefits were determined without a reduction computed by reference to the member's age, duration of service, or both, and without any other similar reduction, and

Y is the number of months in the period from the particular day on which lifetime retirement benefits commence to be paid to the member to the earliest of the days that would be determined under clauses (i)(A) to (C) or (ii)(A) to (C), as the case may be, if the member continued in employment with an employer who participates in the plan,

and, for the purposes of this paragraph,

(iii) "early retirement eligibility service" of a member in relation to a defined benefit provision of a pension plan means one or more periods each of which is

(A) a period that is pensionable service of the member under the provision, or

(B) a period throughout which the member was employed by an employer who has participated in the plan or by a predecessor employer to such an employer, and

(iv) "years of early retirement eligibility service" of a member in relation to a defined benefit provision of a pension plan means the aggregate of all amounts each of which is the duration (measured in years, including any fraction of a year) of a period that is early retirement eligibility service of the member in relation to the provision;

Increased benefits for disabled member

(*d*) where the amount of lifetime retirement benefits provided under the provision to a member depends on whether the member is physically or mentally impaired at the time (in this paragraph referred to as the "time of commencement") at which retirement benefits under the provision commence to be paid to the member,

(i) the amount of lifetime retirement benefits payable if

(A) the member is not totally and permanently disabled at the time of commencement, or

(B) the member is totally and permanently disabled at the time of commencement and was, at any time after 1990, connected with any employer who has participated in the plan

satisfies the limit that would be determined by the formula in paragraph (*c*) if the member were not impaired at the time of commencement, and

(ii) the amount of lifetime retirement benefits payable for a particular month to the member if subparagraph (i) is not applicable does not exceed the amount determined for the particular month by the formula

$$\frac{(A + B) \times C}{12}$$

where

A is the amount (expressed on an annualized basis) of lifetime retirement benefits accrued under the provision to the member as of the time of commencement, determined as if the member were not impaired at the time of commencement and without any reduction computed by reference to the member's age, duration of service or both, and without any other similar reduction, B is, in the case of a member who attains 65 years of age before the time of commencement, nil, and otherwise the amount, if any, by which the lesser of

(A) the amount (expressed on an annualized basis) of lifetime retirement benefits that could reasonably be expected to have accrued to the member to the day on which the member would have attained 65 years of age if the member had survived to that day and continued in employment and if the member's rate of remuneration had not increased after the time of commencement, and

(B) the amount, if any, by which the Year's Maximum Pensionable Earnings for the calendar year that includes the time of commencement exceeds such amount as is required by the Minister to be determined in respect of benefits provided to the member under other benefit provisions of the plan and under benefit provisions of other registered pension plans

exceeds the amount determined for A, and

C is the greatest of all amounts each of which is the ratio of the Consumer Price Index for a month not before the month that includes the time of commencement and not after the particular month to the Consumer Price Index for the month that includes the time of commencement;

Pre-1991 benefits

(*e*) all benefits provided under the provision in respect of periods before 1991 are acceptable to the Minister, and, for the purposes of this condition, any benefits in respect of periods before 1991 that become provided after 1988 in respect of a member who is connected with an employer who participates in the plan, or was so connected at any time before the benefits become provided, shall, unless the Minister is notified in writing that the benefits are provided in respect of the member, be deemed to be unacceptable to the Minister;

Determination of retirement benefits

(*f*) the amount of retirement benefits provided under the provision to a member is determined in such a manner that the member's pension credit (as determined under Part LXXXIII) under the provision for a calendar year in respect of an employer is determinable at the end of the year;

Benefit accrual rate

(*g*) where the amount of lifetime retirement benefits provided under the provision to a member is determined, in part, by multiplying the member's remuneration (or a function of the member's remuneration) by an annual benefit accrual rate, or in a manner that is equivalent to such a multiplication, the benefit accrual rate or the equivalent benefit accrual rate, as the case may be, does not exceed 2%;

Increase in accrued benefits

(*h*) where the amount of lifetime retirement benefits provided to a member in respect of a calendar year depends on

(i) the member's remuneration in subsequent years, or

(ii) the average wage (or other general measure of wages and salaries) for subsequent years,

and this condition has not been waived by the Minister, the formula for determining the amount of lifetime retirement benefits is such that

(iii) the percentage increase from year to year in the amount of lifetime retirement benefits accrued to the member in respect of the year can reasonably be expected to approximate or be less than the percentage increase from year to year in the member's remuneration or in the average wage (or other general measure of wages and salaries), as the case may be, or

(iv) the condition in subparagraph (iii) is not satisfied only by reason that the formula can reasonably be considered to have been designed taking into account the public pension benefits payable to members, and, for the purposes of this condition, where in determining the amount of lifetime retirement benefits provided under the provision to a member there is deducted an amount described in subparagraph (*j*)(i), it shall be assumed that the amount so deducted is nil;

Idem

(*i*) where the amount of lifetime retirement benefits provided to a member in respect of a calendar year depends on the member's remuneration in other years, the formula for determining the amount of the lifetime retirement benefits is such that any increase in the amount of lifetime retirement benefits accrued to the member in respect of the year that is attributable to increased remuneration is primarily attributable to an increase in the rate of the member's remuneration;

Offset benefits

(*j*) where

(i) in determining the amount of lifetime retirement benefits provided under the provision to a member there is deducted

(A) the amount of lifetime retirement benefits provided to the member under a benefit provision of a registered pension plan, or

(B) the amount of a lifetime annuity provided to the member under a deferred profit sharing plan, and

(ii) a single amount is paid in full or partial satisfaction of the member's entitlement to benefits under the benefit provision referred to in clause (i)(A) or the deferred profit sharing plan referred to in clause (i)(B),

the amount that is so deducted in determining the amount of the member's lifetime retirement benefits under the defined benefit provision includes the amount of lifetime retirement benefits or lifetime annuity that may reasonably be considered to have been foregone as a consequence of the payment of the single amount;

Bridging benefits - cross-plan restriction

(*k*) bridging benefits are not paid under the provision to a member who receives bridging benefits under another defined benefit provision of the plan (in this paragraph referred to as the "particular plan") or under a defined benefit provision of another registered pension plan, except that this condition is not applicable where it is waived by the Minister or where

(i) bridging benefits are paid to the member under only one defined benefit provision of the particular plan,

(ii) the decision to provide bridging benefits under the particular plan to the member was not made by the member, by persons with whom the member does not deal at arm's length or by the member and such persons, and

(iii) each employer who has participated in any registered pension plan (other than the particular plan) under a defined benefit provision of which the member receives bridging benefits

(A) has not participated in the particular plan, and

(B) has always dealt at arm's length with each employer who has participated in the particular plan,

and, for the purposes of this paragraph, bridging benefits do not include benefits that are provided, on a basis no more favourable than an actuarially equivalent basis, in lieu of lifetime retirement benefits and related death benefits; and

Division of benefits on marriage breakdown

(*l*) where, by reason of a provision of a law described in subparagraph 8501(5)(*b*)(ii), a spouse or former spouse of a member becomes entitled to receive all or any portion of the benefits that would otherwise be payable under the defined benefit provision to the member, and paragraph 8501(5)(*d*) is applicable with respect to the benefits,

(i) the present value of benefits provided under the provision in respect of the member (including, for greater certainty, benefits provided in respect of the spouse or former spouse) is not increased as a consequence of the spouse or former spouse becoming so entitled to benefits, and

(ii) the benefits provided under the provision to the member are not, at any time, adjusted to replace, in whole or in part, the portion of the member's benefits to which the spouse or former spouse has become entitled.

Additional Conditions

(4) For the purposes of section 8501, the following conditions are applicable with respect to each defined benefit provision of a pension plan:

Member contributions

(*a*) where members are required or permitted to make contributions under the provision,

(i) the aggregate amount of current service contributions to be made by a member in respect of a calendar year after 1990, no part of which is a period of disability or an eligible period of reduced pay or temporary absence of the member, does not exceed the lesser of

(A) 9% of the aggregate of all amounts each of which is the member's compensation for the year from an employer who participates in the plan in the year for the benefit of the member, and

(B) the aggregate of $1,000 and 70% of the aggregate of all amounts each of which is the amount that would be the member's pension credit (as determined under Part LXXXIII) for the year under the provision in respect of an employer if section 8302 were read without reference to paragraphs (2)(*b*) and (3)(*g*) thereof,

(ii) the method for determining current service contributions to be made by a member in respect of a calendar year that includes a period of disability or an eligible period of reduced pay or temporary absence of the member (such periods referred to in this subparagraph as "periods of reduced services") is consistent with that used for determining contributions in respect of years described in subparagraph (i), except that the member may be permitted or required to make, in respect of periods of reduced services, current service contributions not exceeding the amount reasonably necessary to fund the member's benefits in respect of the periods of reduced services, and

(iii) the aggregate amount of contributions to be made by a member in connection with benefits that, as a consequence of a transaction, event or circumstance occurring at a particular time, become provided under the provision in respect of periods before that time does not exceed the amount reasonably necessary to fund such benefits;

Pre-payment of member contributions

(*b*) the contributions made under the provision by a member in respect of a calendar year are not paid before the year;

Reduction in benefits and return of contributions

(*c*) the plan includes a stipulation permitting

(i) the plan to be amended at any time to reduce the benefits provided under the provision in respect of a member, and

(ii) a contribution made under the provision by a member or by an employer to be returned to the person who made the contribution

to avoid the revocation of the registration of the plan;

Undue deferral of payment

(*d*) each single amount payable after the death of a member is paid as soon as is practicable after the member's death (or after all other benefits have been paid, in the case of a single amount permitted by reason of paragraph (2)(*j*));

Evidence of disability

(*e*) where the amount of lifetime retirement benefits provided under the provision to a member who is totally and permanently disabled exceeds the amount of such benefits that would be provided if the member were not totally and permanently disabled, the additional benefits are not paid before the plan administrator is satisfied, on the basis of a written certification from a medical doctor, licensed to practise under the laws of a province of Canada or of the place where the member resides, that the member is totally and permanently disabled; and

Idem

(*f*) where lifetime retirement benefits are provided under the provision to a member in respect of a period of disability of the member, the benefits, to the extent that they would not be in accordance with paragraph (3)(a) if that paragraph were read without reference to subparagraph (iv) thereof, are not paid before the plan administrator is satisfied, on the basis of a written certification from a medical doctor, licensed to practise under the laws of a province of Canada or of the place where the member resides, that the period is a period of disability.

Waiver of Member Contribution Condition

(5) The Minister may waive the conditions in paragraph (4)(*a*) where member contributions under a defined benefit provision of a pension plan are determined in a manner acceptable to the Minister and it is reasonable to expect that, on a long-term basis, the aggregate of the regular current service contributions made under the provision by all members will not exceed 1/2 of the amount required to fund the aggregate benefits in respect of which such contributions are made.

Pre-Retirement Death Benefits

(6) A pension plan may provide, in the case of a member who dies before retirement benefits under a defined benefit provision of the plan commence to be paid to the member but after becoming eligible to have such benefits commence to be paid, benefits under the provision to the beneficiaries of the member where the benefits would be in accordance with subsection (2) if retirement benefits under the provision had commenced to be paid to the member immediately before the member's death.

Commutation of Lifetime Retirement Benefits

(7) Where a pension plan permits a member to receive a single amount in full or partial satisfaction of the member's entitlement to lifetime retirement benefits under a defined benefit provision of the plan, the following rules apply:

(*a*) the condition in subparagraph (2)(*b*)(i) that the payment of bridging benefits under the provision not commence before lifetime retirement benefits commence to be paid under the provision to the member is not applicable where, before the member's lifetime retirement benefits commence to be paid, a single amount is paid in full satisfaction of the member's entitlement to the lifetime retirement benefits; and

(*b*) such part of the member's lifetime retirement benefits as remains payable after a single amount is paid in full satisfaction of the member's entitlement to lifetime retirement benefits that would otherwise be payable after the member attains a particular age shall be deemed, for the purposes of the conditions in this section, to be lifetime retirement benefits and not to be bridging benefits.

Suspension or Cessation of Pension

(8) A pension plan may

(*a*) provide for the suspension of payment of a member's retirement benefits under a defined benefit provision of the plan where

(i) the retirement benefits payable to the member after the suspension are not altered by reason of the suspension, or

(ii) subsection (9) is applicable with respect to the member's retirement benefits; and

(*b*) provide for the cessation of payment of any additional benefits that are payable under a defined benefit provision of the plan to a member by reason of a physical or mental impairment of the member at the time the member's retirement benefits commence to be paid.

Re-Employed Member

(9) Subject to subsection (10), where a pension plan provides in the case of a member who becomes an employee of a participating employer after the member's retirement benefits under a defined benefit provision of the plan have commenced to be paid, that

(*a*) payment of the member's retirement benefits under the provision is suspended while the member is employed by any participating employer, and

(*b*) the amount of retirement benefits payable to the member after the suspension is redetermined

(i) to include benefits in respect of all or any part of the period throughout which payment of the member's benefits was suspended,

(ii) where the member was totally and permanently disabled at the time at which the member's retirement benefits commenced to be paid, to include benefits in respect of all or any part of the period of disability of the member,

(iii) where the amount of the member's retirement benefits was previously determined with a reduction computed by reference to the member's age, duration of service or both, or with any other similar reduction, by redetermining the amount of the reduction, or

(iv) where payment of the member's retirement benefits recommences after the member attains 65 years of age, by applying an adjustment for the purpose of compensating, in whole or in part, for the payments foregone by the member after attaining 65 years of age,

the following rules apply:

(*c*) the condition in paragraph (3)(*b*) is not applicable with respect to benefits provided under the provision to the member in respect of a period throughout which payment of the member's benefits is suspended;

(*d*) where the member was totally and permanently disabled at the time at which the member's retirement benefits commenced to be paid, the condition in paragraph (3)(*b*) is not applicable with respect to benefits provided under the provision to the member in respect of a period of disability of the member;

(*e*) the conditions in paragraphs (2)(*b*), (3)(*c*) and (3)(*d*) and section 8504 are applicable with respect to benefits payable under the provision to the member after a suspension of the member's retirement benefits as if the member's retirement benefits had not previously commenced to be paid; and

(*f*) for the purpose of paragraph 8502(*c*) as it applies with respect to benefits provided under the provision on the death of the member during or after a period throughout which payment of the member's benefits is suspended, subsections (2) and (6) are applicable as if the member's retirement benefits had not commenced to be paid before the period.

Re-Employed Member - Special Rules Not Applicable

(10) Subsection (9) does not apply with respect to the benefits provided under a defined benefit provision of a pension plan to a member unless the terms of the plan providing for the redetermination of the amount of the member's retirement benefits do not apply where retirement benefits have, at any time, been paid under the provision to the member while the member was an employee of a participating employer.

Re-Employed Member - Anti-avoidance

(11) Where a member of a registered pension plan has become an employee of a participating employer after the member's retirement benefits under a defined benefit provision of the plan have commenced to be paid, and it is reasonable to consider that one of the main reasons for the employment of the member is to enable the member to benefit from terms of the plan providing for a redetermination of the amount of the member's retirement benefits provided in respect of a period before the benefits commenced to be paid, the plan becomes a revocable plan at the time the payment of the member's benefits recommences.

Limits Dependent On Consumer Price Index

(12) Benefits provided under a defined benefit provision of a pension plan that are benefits to which a condition in any of subparagraphs (2)(*b*)(ii), (2)(*e*)(v) and (vi) and (3)(*d*)(ii) is applicable shall be deemed to comply with the condition where they would so comply if the Consumer Price Index ratio computed as part of the formula that applies for the purpose of the condition were replaced by a substantially similar measure of the change in the Consumer Price Index.

Statutory Plans - Special Rules

(13) Notwithstanding subsection (3),

(a) for the purposes of the condition in paragraph (3)(*b*) as it applies with respect to benefits provided under the pension plan established by the *Public Service Superannuation Act*, the reference to "any other registered pension plan" in subparagraph (3)(*b*)(ii) does not include the pension plans established by the *Canadian Forces Superannuation Act* and the *Royal Canadian Mounted Police Superannuation Act*; and

(b) the condition in paragraph (3)(*c*) does not apply with respect to benefits provided under the pension plan established by the *Canadian Forces Superannuation Act*.

Artificially Reduced Pension Adjustment

(14) Where

(*a*) the amount of lifetime retirement benefits provided under a defined benefit provision of a registered pension plan to a member depends on the member's remuneration,

(*b*) remuneration (in this subsection referred to as "excluded remuneration") of certain types is disregarded for the purpose of determining the amount of the member's lifetime retirement benefits, and

(*c*) it can reasonably be considered that one of the main reasons that remuneration in the form of excluded remuneration was paid to the member by an employer at any time was to artificially reduce a pension credit of the member under the provision in respect of the employer, the following rules apply for the purposes of the conditions in subsection 8504(1):

(*d*) the member shall be deemed to have been connected with the employer while the member was employed by the employer; and

(*e*) the member shall be deemed not to have received such remuneration as is excluded remuneration.

Past Service Employer Contribution

(15) Where

(*a*) a contribution made by an employer to a registered pension plan is made, in whole or in part, in respect of benefits (in this subsection referred to as "past service benefits") provided under the plan to a member in respect of a period before 1990 and before the calendar year in which the contribution is made,

(*b*) the contribution is made

(i) after December 10, 1989, or

(ii) before December 11, 1989 where the contribution has not, before that date, been approved by the Minister under paragraph 20(1)(s) of the Act, and

(*c*) it is reasonable to consider that all, or substantially all, of such portion of the contribution as is in respect of past service benefits was paid by the employer, with the consent of the member, in lieu of a payment or other benefit to which the member would otherwise be entitled,

the plan becomes, for the purposes of paragraph 147.1(11)(c) of the Act, a revocable plan on the later of December 11, 1989 and the day immediately before the day on which the contribution is made.

MAXIMUM BENEFITS

Lifetime Retirement Benefits

8504.(1) For the purposes of subparagraph 8502(*c*)(i), the following conditions are applicable with respect to the lifetime retirement benefits provided to a member under a defined benefit provision of a pension plan:

(*a*) the amount (expressed on an annualized basis) of lifetime retirement benefits payable to the member for the calendar year (in this paragraph referred to as the "year of commencement") in which the lifetime retirement benefits commence to be paid does not exceed the aggregate of

(i) the aggregate of all amounts each of which is, in respect of a calendar year after 1990 (in this paragraph referred to as a "specified year") in which the member was, at any time, connected with an employer who participated in the plan in the year for the benefit of the member, the lesser of

(A) the amount determined by the formula

$$.02 \times A \times \frac{B}{C}$$

where

A is the aggregate of all amounts each of which is the member's compensation for the specified year from an employer who participated under the provision in the year for the benefit of the member,

B is the greatest of all amounts each of which is the average wage for a calendar year not before the specified year and not after the year of commencement, and

C is the average wage for the specified year, and

(B) the amount determined by the formula

$$D \times E$$

where

D is the defined benefit limit for the year of commencement, and

E is the fraction of the specified year that is pensionable service of the member under the provision, and

(ii) the amount determined by the formula

$$F \times G$$

where

F is the lesser of

(A) 2% of the member's highest average compensation (computed under subsection (2)) for the purpose of the provision, indexed to the year of commencement, and

(B) the defined benefit limit for the year of commencement, and

G is the aggregate of all amounts each of which is the duration (measured in years, including any fraction of a year) of a period that is pensionable service of the member under the provision and no part of which is in a specified year; and

(*b*) the amount of lifetime retirement benefits payable to the member for a particular calendar year after the year in which the lifetime retirement benefits commence to be paid does not exceed the product of

(i) the aggregate of the amounts determined under subparagraphs (*a*)(i) and (ii), and

(ii) the greatest of all amounts each of which is the ratio of

(A) the average Consumer Price Index for a calendar year not earlier than the calendar year in which the lifetime retirement benefits commence to be paid and not later than the particular year to

(B) the average Consumer Price Index for the calendar year in which the lifetime retirement benefits commence to be paid.

Highest Average Compensation

(2) For the purposes of subsection (1) and paragraph 8505(3)(*d*), the highest average compensation of a member of a pension plan for the purpose of a defined benefit provision of the plan, indexed to the calendar year (in this subsection referred to as the "year of commencement") in which the member's retirement benefits under the provision commence to be paid, is,

(*a*) in the case of a member who has been employed for three non-overlapping periods of 12 consecutive months each by employers who participated under the provision for the benefit of the member, 1/3 of the greatest of all amounts each of which is the aggregate of the member's total indexed compensation for the purpose of the provision for each of the 36 months in three such periods throughout which the member was so employed, and

(*b*) in any other case, the amount determined by the formula

$$12 \times \frac{H}{I}$$

where

H is the aggregate of all amounts each of which is the member's total indexed compensation for the purpose of the provision for a month throughout which the member was employed by an employer who participated under the provision for the benefit of the member, and

I is the number of months for which total indexed compensation is included in the amount determined for H, and, for the purposes of this subsection, the member's total indexed compensation for a month for the purpose of the provision is the amount determined by the formula

$$J \times \frac{K}{L}$$

where

J is the aggregate of all amounts each of which is such portion of the member's compensation for the calendar year (in this subsection referred to as the "compensation year") that includes the month from an employer who participated under the provision for the benefit of the member as may reasonably be considered to have been received in the month or to otherwise relate to the month,

K is the greatest of all amounts each of which is the average wage for a calendar year not before the later of the compensation year and 1986, and not after the year of commencement, and

L is the average wage for the later of the compensation year and 1986.

Alternative Compensation Rules

(3) Lifetime retirement benefits provided to a member under a defined benefit provision of a pension plan shall be deemed to comply with the conditions in subsection (1) where they would so comply if either or both of the following rules were applicable:

(*a*) determine, for the purpose of subsection (2), the member's compensation from an employer for a calendar year by adding to the compensation otherwise determined such portion of the amount of each bonus and retroactive increase in remuneration paid by the employer to the member after the year as may reasonably be considered to be in respect of the year, and deducting therefrom such portion of the amount of each bonus and retroactive increase in remuneration paid by the employer to the member in the year as may reasonably be considered to be in respect of a preceding year; and

(*b*) determine, for the purpose of computing the amount J in subsection (2), the portion of the member's compensation from an employer for a calendar year that may reasonably be considered to relate to a month in the year by apportioning the compensation uniformly over the period in the year in respect of which it was paid.

Part-Time Employee

(4) Where the pensionable service of a member under a defined benefit provision of a pension plan includes a period throughout which the member rendered services on a part-time basis to an employer who participates in the plan, the lifetime retirement benefits provided under the provision to the member shall be deemed to comply with the conditions in subsection (1) where they would so comply, or would be deemed by subsection (3) to so comply, if,

(*a*) for the purpose of determining the amount J in subsection (2), the member's compensation from an employer for a calendar year in which the member rendered services on a part-time basis to the employer were the amount that it is reasonable to expect would have been the member's compensation for the year from the employer if the member had rendered services to the employer on a full-time basis throughout the period or periods in the year throughout which the member rendered services to the employer, and

(*b*) in determining the amount G under subparagraph (1)(*a*)(ii), the duration of each period were multiplied by a fraction (not greater than one) that measures the services rendered by the member throughout the period to employers who participate in the plan as a proportion of the services that would have been rendered by the member throughout the period to such employers had the member rendered services on a full-time basis,

and, for the purposes of this subsection,

(*c*) where a member of a pension plan has rendered services throughout a period to two or more employers who participate in the plan, the employers shall be deemed to be, throughout the period, the same employer; and

(*d*) where a period (in this paragraph referred to as a "period of reduced services") is

(i) an eligible period of reduced pay or temporary absence of a member of a pension plan with respect to an employer, or

(ii) a period of disability of the member,

the member shall be deemed

(iii) to have rendered services throughout the period on a regular basis (having regard to the services rendered by the employee before the period) to the employer or employers by whom the member was employed before the period, and

(iv) to have received remuneration throughout the period at a rate commensurate with the member's rate of remuneration before the period.

Retirement Benefits Before Age 65

(5) For the purposes of subparagraph 8502(*c*)(i), the following conditions are applicable with respect to the retirement benefits payable under a defined benefit provision of a pension plan to a member of the plan for the period (in this subsection referred to as the "bridging period") from the time at which the benefits commence to be paid to the time at which the member attains 65 years of age:

(*a*) the amount (expressed on an annualized basis) of retirement benefits payable to the member for that part of the bridging period that is in the calendar year in which the benefits commence to be paid does not exceed the amount determined by the formula

$$(A \times B) + \left(0.25 \times C \times \frac{D}{35}\right)$$

where

A is the defined benefit limit for the calendar year in which the benefits commence to be paid,

B is the aggregate of all amounts each of which is the duration (measured in years, including any fraction of a year) of a period that is pensionable service of the member under the provision,

C is the average of the Year's Maximum Pensionable Earnings for the year in which the benefits commence to be paid and for each of the two immediately preceding years, and

D is the lesser of 35 and the amount determined for B; and

(*b*) the amount of retirement benefits (expressed on an annualized basis) payable to the member for that part of the bridging period that is in a particular calendar year after the year in which the retirement benefits commence to be paid does not exceed the product of

(i) the amount determined by the formula in paragraph (*a*), and

(ii) the greatest of all amounts each of which is the ratio of

(A) the average Consumer Price Index for a calendar year not earlier than the calendar year in which the retirement benefits commence to be paid and not later than the particular year

to

(B) the average Consumer Price Index for the calendar year in which the retirement benefits commence to be paid.

Pre-1990 Benefits

(6) For the purposes of subparagraph 8502(*c*)(i), and subject to subsection (7), the lifetime retirement benefits provided under a defined benefit provision of a pension plan to a member of the plan in respect of pensionable service in a particular calendar year before 1990 (in this subsection referred to as the "benefit year") are subject to the condition that

(*a*) the amount (expressed on an annualized basis) of such lifetime retirement benefits payable to the member for a particular calendar year (in this subsection referred to as the "payment year")

does not exceed

(*b*) the amount determined by the formula

$$\frac{2}{3} \times A \times B \times C$$

where

A is the greater of $1,725 and the defined benefit limit for the year in which the benefits commence to be paid,

B is the aggregate of all amounts each of which is the duration (measured as a fraction of a year) of a period in the benefit year that is pensionable service of the member under the provision, and

C is the greatest of all amounts each of which is the ratio of

(i) the average Consumer Price Index for a calendar year not earlier than the calendar year in which the lifetime retirement benefits commence to be paid and not later than the payment year

to

(ii) the average Consumer Price Index for the calendar year in which the lifetime retirement benefits commence to be paid.

Limit Not Applicable

(7) The condition in subsection (6) is not applicable with respect to lifetime retirement benefits provided to an individual in respect of periods of pensionable service in a particular calendar year if

(*a*) at any time before June 8, 1990, a period in the particular year was pensionable service of the individual under a defined benefit provision of a registered pension plan;

(*b*) on June 7, 1990, the individual was entitled, pursuant to an arrangement in writing, to be provided with lifetime retirement benefits under a defined benefit provision of a registered pension plan in respect of a period in the particular year, whether or not the individual's entitlement was conditional upon the individual making contributions under the provision;

(*c*) at the commencement of the particular year, a period in a preceding year was pensionable service of the individual under a defined benefit provision of a registered pension plan, and the individual did not, by reason of disability or leave of absence, render services in the particular year to an employer who participated in the plan in respect of the individual;

(*d*) contributions were made before June 8, 1990 by, or on behalf of, the individual under a money purchase provision of a registered pension plan in respect of the year; or

(*e*) contributions were made in the year by, or on behalf of, the individual to a deferred profit sharing plan.

Cross-Plan Restrictions

(8) Where an individual is provided with benefits under more than one defined benefit provision, the determination of whether the benefits provided to the individual under a particular defined benefit provision comply with the conditions in subsections (5) and (6) shall be made on the assumption that benefits provided to the individual under each other defined benefit provision (other than a provision that is not included in a registered pension plan) associated with the particular provision were provided under the particular provision.

Associated Defined Benefit Provisions

(9) For the purposes of subsection (8), a defined benefit provision is associated with a particular defined benefit provision if

(*a*) the provisions are in the same pension plan, or

(*b*) the provisions are in separate pension plans and either

(i) there is an employer who participates in both plans,

(ii) an employer who participates in one of the plans does not deal at arm's length with an employer who participates in the other plan, or

(iii) there is an individual who is provided with benefits under both provisions and the individual, or a person with whom the individual does not deal at arm's length, has the power to determine the benefits that are provided under the particular provision,

unless it is unreasonable to expect the benefits under the particular provision to be coordinated with the benefits under the other provision and the Minister has agreed not to treat the other provision as being associated with the particular provision.

Excluded Benefits

(10) For the purpose of determining whether lifetime retirement benefits provided under a defined benefit provision of a pension plan comply with the conditions in subsection (1), the following benefits shall be disregarded:

(*a*) additional lifetime retirement benefits payable to a member because the member is totally and permanently disabled at the time the member's retirement benefits commence to be paid; and

(*b*) additional lifetime retirement benefits payable to a member whose retirement benefits commence to be paid after attaining 65 years of age, where the additional benefits result from an adjustment made for the purpose of offsetting, in whole or in part, the decrease in the value of lifetime retirement benefits that would otherwise result by reason of the deferral of such benefits after the member attains 65 years of age and the adjustment is not more favourable than such an adjustment made on an actuarially equivalent basis.

Idem

(11) For the purpose of determining whether retirement benefits provided under a defined benefit provision of a pension plan comply with the conditions in subsection (5), the following benefits shall be disregarded:

(*a*) additional lifetime retirement benefits described in paragraph (10)(*a*); and

(*b*) bridging benefits payable at the election of a member, where the benefits are provided, on a basis that is not more favourable than an actuarially equivalent basis, in lieu of a proportion of the lifetime retirement benefits that would otherwise be payable under the provision to the member and any benefits related thereto payable after the death of the member.

Idem

(12) For the purpose of determining whether lifetime retirement benefits provided under a defined benefit provision of a pension plan comply with the condition in subsection (6), additional lifetime retirement benefits described in paragraph (10)(*b*) shall be disregarded.

Alternative CPI Indexing

(13) The lifetime retirement benefits provided to a member under a defined benefit provision of a pension plan shall be deemed to comply with the condition in paragraph (1)(*b*) where they would so comply, or would be deemed by subsection (3) or (4) to so comply, if the ratio determined under subparagraph (1)(*b*)(ii) were replaced by a substantially similar measure of the change in the Consumer Price Index.

Idem

(14) The retirement benefits provided to a member under a defined benefit provision of a pension plan shall be deemed to comply with the condition in paragraph (5)(*b*) where they would so comply if the ratio determined under subparagraph (5)(*b*)(ii) were replaced by a substantially similar measure of the change in the Consumer Price Index.

Idem

(15) The lifetime retirement benefits provided to a member under a defined benefit provision of a pension plan shall be deemed to comply with the condition in subsection (6) where they would so comply if the amount C in the formula in paragraph (6)(*b*) were replaced by a substantially similar measure of the change in the Consumer Price Index.

ADDITIONAL BENEFITS ON DOWNSIZING

Downsizing Program

8505.(1) For the purposes of this section, "downsizing program" means the actions taken by an employer to bring about a reduction in the employer's workforce, including

(*a*) the termination of employment of employees, and (*b*) the payment of amounts and the provision of special benefits to employees who elect or are required to terminate their employment.

Applicability of Downsizing Rules

(2) For the purposes of this section,

(*a*) a downsizing program is an approved downsizing program if the Minister has approved in writing the application of this section in connection with the program;

(*b*) an individual is a qualifying individual in relation to an approved downsizing program if

(i) the employment of the individual has terminated while the downsizing program is in effect,

(ii) the individual was not, at any time before the termination of employment, connected with the employer from whom the individual terminated employment, and

(iii) the Minister has approved in writing the application of this section with respect to the individual; and

(*c*) the specified day is, in respect of an approved downsizing program,

(i) the day designated by the Minister in writing for the purpose of subparagraph (3)(*c*)(ii), and

(ii) if no such day has been designated, two years after the date on which the Minister approves the application of this section in connection with the downsizing program.

Additional Lifetime Retirement Benefits

(3) Lifetime retirement benefits (in this subsection and subsection (6) referred to as "special retirement benefits") that do not comply with the condition in paragraph 8503(3)(*a*) may be provided under a defined benefit provision of a pension plan to a member of the plan who terminates employment after attaining 55 years of age, where the following conditions are satisfied:

(*a*) the special retirement benefits are provided pursuant to an approved downsizing program;

(*b*) the member is a qualifying individual in relation to the downsizing program;

(*c*) under the terms of the provision,

(i) retirement benefits will not commence to be paid to the member until the member ceases to be employed by all employers who participate in the plan, and

(ii) retirement benefits will commence to be paid to the member no later than the specified day;

(*d*) the amount (expressed on an annualized basis) of special retirement benefits payable to the member for a particular calendar year does not exceed the amount determined by the formula

$$A \times B \times C$$

where

A is the lesser of

(i) 2% of the member's highest average compensation (computed under subsection 8504(2)) for the purpose of the provision, indexed to the calendar year (in this paragraph referred to as the "year of commencement") in which retirement benefits commence to be paid under the provision to the member, and

(ii) the defined benefit limit for the year of commencement,

B is the lesser of 7 and the amount, if any, by which 65 exceeds the member's age (expressed in years, including any fraction of a year) at termination of employment, and

C is the greatest of all amounts each of which is the ratio of

(i) the average Consumer Price Index for a calendar year not earlier than the year of commencement and not later than the particular year to

(ii) the average Consumer Price Index for the year of commencement;

(*e*) the plan provides for the termination of payment of the special retirement benefits if, at any time after the benefits commence to be paid, a circumstance described in subsection (5) occurs in respect of the member;

(*f*) either

(i) the plan does not permit the commutation of retirement benefits payable to the member, or

(ii) the plan permits the commutation of retirement benefits payable to the member only if the life expectancy of the member is significantly shorter than normal; and

(*g*) lifetime retirement benefits permissible only by reason of this subsection are not provided to the member under any other defined benefit provision, unless this condition has been waived by the Minister.

Early Retirement Reduction

(4) For the purposes of the condition in paragraph 8503(3)(*c*) as it applies with respect to the lifetime retirement benefits provided under a defined benefit provision of a pension plan to a member of the plan, the member shall be deemed to be a person described in subparagraph 8503(3)(*c*)(i) where the following conditions are satisfied:

(*a*) the member is a qualifying individual in relation to the downsizing program;

(*b*) pursuant to the downsizing program, the terms for determining the amount by which the member's lifetime retirement benefits under the provision are reduced on account of the early commencement of the benefits are modified in a way so that they do not, but for this subsection, comply with the condition in paragraph 8503(3)(*c*); and (*c*) the plan provides that any lifetime retirement benefits that are permissible only by reason of this subsection will cease to be payable if, at any time after the member terminates employment under the downsizing program, a circumstance described in subsection (5) occurs in respect of the member.

Re-Employment

(5) For the purposes of paragraphs (3)(*e*) and (4)(*c*), the circumstances described in this subsection in respect of a member of a pension plan are as follows:

(*a*) the member becomes employed by an employer who participates in the plan or by an employer who is related to an employer who participates in the plan,

(*b*) the member provides services (other than exempt services) to a person referred to in paragraph (*a*), or

(*c*) a corporation with which the member is connected provides services (other than exempt services) to a person referred to in paragraph (*a*) and the member is directly involved in the provision of the services,

and, for the purposes of this subsection, exempt services are services provided pursuant to an agreement to provide services for a period not exceeding six months where the Minister has agreed in writing that the services are to be disregarded for the purposes of this paragraph.

Alternative CPI Indexing

(6) Special retirement benefits provided under a defined benefit provision of a pension plan to a member shall be deemed to comply with the condition in paragraph (3)(*d*) where they would so comply if the amount C in that paragraph were replaced by a substantially similar measure of the change in the Consumer Price Index.

Exclusion from Maximum Pension Rules

(7) For the purpose of determining whether retirement benefits provided under a defined benefit provision of a pension plan comply with the conditions in subsections 8504(1) and (5), lifetime retirement benefits permissible only by reason of subsection (3) shall be disregarded.

Exemption from Past Service Contribution Rule

(8) Subsection 8503(15) does not apply with respect to a contribution made in respect of benefits provided to a qualifying individual pursuant to an approved downsizing program.

MONEY PURCHASE PROVISIONS

Permissible Benefits

8506.(1) For the purposes of paragraph 8502(*c*), the following benefits may, subject to the conditions specified in respect of each benefit, be provided under a money purchase provision of a pension plan:

Lifetime retirement benefits

(*a*) lifetime retirement benefits provided to a member where the benefits are payable in equal periodic amounts or are not so payable only by reason that

(i) the benefits payable to a member after the death of the member's spouse are less than the benefits that would be payable to the member were the member's spouse alive, or

(ii) the benefits are adjusted, after they commence to be paid, where

(A) in the case of retirement benefits provided in accordance with subparagraph (2)(*g*)(i), the adjustments would be in accordance with any of subparagraphs 146(3)(*b*)(iii) to (v) of the Act if the annuity by means of which the lifetime retirement benefits are provided were an annuity under a retirement savings plan, and

(B) in any other case, the adjustments are similar in nature to the adjustments permissible under clause (A) and are acceptable to the Minister;

Bridging benefits

(*b*) bridging benefits provided to a member where the bridging benefits are payable for a period ending no later than the end of the month following the month in which the member attains 65 years of age;

Guarantee period

(*c*) retirement benefits (in this paragraph referred to as "continued retirement benefits") provided to one or more beneficiaries of a member who dies after retirement benefits under the provision commence to be paid to the member where

(i) the continued retirement benefits are payable for a period commencing after the death of the member and ending no later than 15 years after the day on which retirement benefits commence to be paid under the provision to the member, and

(ii) the aggregate amount of continued retirement benefits payable under the provision for each month does not exceed the amount of retirement benefits that would have been payable under the provision for the month to the member if the member were alive;

Post-retirement surviving spouse benefits

(*d*) retirement benefits (in this paragraph referred to as "survivor retirement benefits") provided to a beneficiary of a member who dies after retirement benefits under the provision commence to be paid to the member where

(i) the beneficiary is a spouse or former spouse of the member at the time the member's retirement benefits commence to be paid,

(ii) the survivor retirement benefits are payable for a period commencing after the death of the member and ending with the death of the beneficiary, and

(iii) the aggregate amount of survivor retirement benefits and other retirement benefits payable under the provision for each month to beneficiaries of the member does not exceed the amount of retirement benefits that would have been payable under the provision for the month to the member if the member were alive;

Pre-retirement surviving spouse benefits

(*e*) retirement benefits provided to a beneficiary of a member who dies before retirement benefits under the provision commence to be paid to the member, and benefits provided to other individuals after the death of the beneficiary, where

(i) the beneficiary is a spouse or former spouse of the member at the time of the member's death,

(ii) the benefits would be permissible under paragraphs (*a*) to (*c*) if the beneficiary were a member of the plan, and

(iii) the retirement benefits are payable to the beneficiary commencing no later than the later of one year after the day of death of the member and the end of the calendar year in which the beneficiary attains 71 years of age;

Payment from account

(*f*) the payment in respect of a member of a single amount from the member's account under the provision;

Lump sum payments on death before retirement

(*g*) the payment of one or more single amounts to one or more beneficiaries of a member who dies before retirement benefits under the provision commence to be paid to the member;

Commutation of benefits

(*h*) the payment in respect of a member of a single amount in full or partial satisfaction of the member's entitlement to other benefits under the provision, where the single amount does not exceed the present value (at the time the single amount is paid) of the other benefits that, as a consequence of the payment, cease to be provided; and

Idem

(*i*) the payment, in respect of an individual after the death of a member, of a single amount in full or partial satisfaction of the individual's entitlement to other benefits under the provision, where the individual is a beneficiary of the member and the single amount does not exceed the present value (at the time the single amount is paid) of the other benefits that, as a consequence of the payment, cease to be provided.

Additional Conditions

(2) For the purposes of section 8501, the following conditions are applicable with respect to each money purchase provision of a pension plan:

Employer contributions acceptable to Minister

(*a*) the amount of contributions to be made under the provision by each employer who participates in the plan is determined in a manner acceptable to the Minister;

Employer contributions in respect of particular members

(*b*) each contribution made under the provision by an employer consists only of amounts each of which is an amount paid by the employer in respect of a particular member;

Employer contributions not permitted

(*c*) contributions are not made under the provision by an employer
(i) at a time when there is a surplus under the provision, or

(ii) at a time after 1991 when an amount that became a forfeited amount under the provision before 1990, or any earnings of the plan reasonably attributable thereto, has not been paid to participating employers or reallocated to members of the plan;

Return of contributions

(*d*) the plan includes a stipulation permitting a contribution made under the provision by a member or by an employer to be returned to the person who made the contribution to avoid the revocation of the registration of the plan;

Allocation of earnings

(*e*) the earnings of the plan, to the extent that they relate to the provision and are not reasonably attributable to forfeited amounts or a surplus under the provision, are allocated on a reasonable basis and no less frequently than annually to plan members;

Payment or reallocation of forfeited amounts

(*f*) each forfeited amount under the provision (other than an amount that became a forfeited amount before 1990) and all earnings of the plan reasonably attributable thereto are paid to participating employers or reallocated to members of the plan on or before December 31 of the year immediately following the calendar year in which the amount is forfeited, or such later time as is permitted by the Minister under subsection (3);

Retirement benefits

(*g*) retirement benefits under the provision are provided

(i) by means of annuities purchased from a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business, or

(ii) under an arrangement acceptable to the Minister; and

Undue deferral of payment

(*h*) each single amount payable after the death of a member is paid as soon as is practicable after the member's death.

Reallocation of Forfeitures

(3) The Minister may, on written application of the administrator of a registered pension plan, extend the time for satisfying the requirements of paragraph (2)(*f*) where

(*a*) the aggregate of the forfeited amounts arising in a calendar year is greater than normal because of unusual circumstances; and

(*b*) the forfeited amounts are to be reallocated on a reasonable basis to a majority of plan members.

PERIODS OF REDUCED PAY

Prescribed Compensation

8507.(1) For the purposes of paragraph (*b*) of the definition "compensation" in subsection 147.1(1) of the Act, there is prescribed for inclusion in the compensation of an individual from an employer for a calendar year after 1990

(*a*) where the individual has a qualifying period in the year with respect to the employer, the amount determined under subsection (2) in respect of the period; and

(*b*) where the individual has a period of disability in the year, the amount that would be determined under paragraph (2)(*a*) in respect of the period if the period were a qualifying period of the individual with respect to the employer.

Additional Compensation in Respect of Qualifying Period

(2) For the purposes of paragraph (1)(*a*) and subsection (5), the amount determined in respect of a period in a calendar year that is a qualifying period of an individual with respect to an employer is the lesser of

(*a*) the amount, if any, by which

(i) the amount that it is reasonable to consider would have been the remuneration of the individual for the period from the employer if the individual had rendered services to the employer throughout the period on a regular basis (having regard to the services rendered by the individual to the employer before the complete period of reduced pay of which the period is a part) and the individual's rate of remuneration had been commensurate with the individual's rate of remuneration before the commencement of the complete period of reduced pay

exceeds

(ii) the remuneration of the individual for the period from the employer; and

(*b*) the amount determined by the formula

$$(5 + A + B - C) \times D$$

where

A is the lesser of 3 and the amount that would be the cumulative additional compensation fraction of the individual in respect of the employer, determined to the time that is immediately before the end of the period, if the individual's only qualifying periods had been such periods as are periods of parenting,

B is

(i) if no part of the period is a period of parenting, nil, and

(ii) otherwise, the lesser of

(A) the amount, if any, by which 3 exceeds the amount determined for A, and

(B) the ratio of

(I) the amount that would be determined under paragraph (*a*) if the remuneration referred to in subparagraphs (*a*)(i) and (ii) were the remuneration for such part of the period as is a period of parenting

to

(II) the amount determined for D,

C is the cumulative additional compensation fraction of the individual in respect of the employer, determined to the time that is immediately before the end of the period, and

D is the amount that it is reasonable to consider would have been the individual's remuneration for the year from the employer if the individual had rendered services to the employer on a full-time basis throughout the year and the individual's rate of remuneration had been commensurate with the individual's rate of remuneration before the commencement of the complete period of reduced pay of which the period is a part.

Qualifying Periods and Periods of Parenting

(3) For the purposes of this section,

(*a*) a period in a calendar year is a qualifying period of an individual in the year with respect to an employer if

(i) the period is an eligible period of reduced pay or temporary absence of the individual in the year with respect to the employer,

(ii) either

(A) lifetime retirement benefits are provided to the individual under a defined benefit provision of a registered pension plan (other than a plan that is, in the year, a specified multi-employer plan) in respect of the period, or

(B) contributions are made by or on behalf of the individual to a money purchase provision of a registered pension plan (other than a plan that is, in the year, a specified multi-employer plan) in respect of the period,

pursuant to terms of the plan that apply in respect of periods that are not regular periods of employment,

(iii) the lifetime retirement benefits or the contributions, as the case may be, exceed the benefits that would otherwise be provided or the contributions that would otherwise be made, if the benefits or contributions were based on the services actually rendered by the individual and the remuneration actually received by the individual,

(iv) the individual's pension adjustment for the year in respect of the employer includes an amount in respect of the lifetime retirement benefits or the contributions, as the case may be,

(v) no benefits are provided in respect of the period to the individual under a defined benefit provision of any registered pension plan in which the employer does not participate, and

(vi) no contributions are made by or on behalf of the individual in respect of the period to a money purchase provision of a registered pension plan or a deferred profit sharing plan in which the employer does not participate,

and, for the purposes of this paragraph, a contribution made on behalf of an individual under a money purchase provision of a registered pension plan includes an amount that is allocated to the individual from forfeited amounts or surplus under the provision; and

(*b*) a period is a period of parenting of an individual if it is all or any part of a period that commences

(i) at the time of the birth of a child of whom the individual is a natural parent, or

(ii) at the time at which the individual adopts a child,

and ends 12 months after that time.

Cumulative Additional Compensation Fraction

(4) The cumulative additional compensation fraction of an individual in respect of an employer, determined to any time, is the aggregate of all amounts each of which is the additional compensation fraction associated with a period that ends at or before that time and that is a qualifying period of the individual in a calendar year after 1990 with respect to

(*a*) the employer;

(*b*) any other employer who does not deal at arm's length with the employer; or

(*c*) any other employer who participates in a registered pension plan in which the employer participates for the benefit of the individual.

Additional Compensation Fraction

(5) The additional compensation fraction associated with a qualifying period of an individual in a calendar year with respect to a particular employer is the amount determined by the formula

$$\frac{E}{D}$$

where

D is the amount determined for D under paragraph (2)(*b*) in respect of the qualifying period, and

E is

(*a*) if

(i) all or any part of the qualifying period is a period throughout which the individual renders services to another employer pursuant to an arrangement in respect of which subsection 8308(7) is applicable,

(ii) the particular employer is a lending employer for the purposes of subsection 8308(7) as it applies with respect to the arrangement, and

(iii) the particular employer and the other employer deal with each other at arm's length,

the amount that would be determined under subsection (2) in respect of the qualifying period if, in the determination of the amount under paragraph (2)(*a*), no remuneration were included in respect of the portion of the qualifying period referred to in subparagraph (*a*)(i), and

(*b*) otherwise, the amount determined under subsection (2) in respect of the qualifying period.

Exclusion of Subperiods

(6) A reference in this section to a qualifying period of an individual in a calendar year with respect to an employer or to a period of disability of an individual in a calendar year does not include a period that is part of such a period that is longer.

Complete Period of Reduced Pay

(7) In subsection (2), "complete period of reduced pay" of an individual with respect to an employer means a period that consists of one or more periods each of which is

(*a*) a period of disability of the individual, or

(*b*) an eligible period of reduced pay or temporary absence of the individual with respect to the employer,

and that is not part of such a period that is longer.

SALARY DEFERRAL LEAVE PLAN

8508. Where an employee and an employer enter into an arrangement in writing described in paragraph 6801(*a*) or (*b*), the following rules apply:

(*a*) the period throughout which the employee defers salary or wages pursuant to the arrangement shall be deemed to be an eligible period of reduced pay of the employee with respect to the employer; and

(*b*) for the purposes of section 8507, the amount that it is reasonable to consider would have been the remuneration of the employee for any period from the employer shall be determined on the basis that the employee's rate of remuneration were the amount that it is reasonable to consider would, but for the arrangement, have been the employee's rate of remuneration.

TRANSITION RULES

Prescribed Conditions Applicable Before 1992 to Grandfathered Plan

8509.(1) The prescribed conditions for the registration of a grandfathered plan are, before 1992,

(*a*) the condition in paragraph 8502(*a*),

(*b*) the condition in paragraph 8502(*c*), but only with respect to benefits provided under money purchase provisions of the plan, and

(*c*) if the plan contains a money purchase provision, the condition in paragraph 8506(2)(*a*),

and the following conditions:

(*d*) the benefits provided under each defined benefit provision of the plan are acceptable to the Minister, and, for the purposes of this condition, any benefits in respect of periods before 1991 that become provided after 1988 in respect of a member who is connected with an employer who participates in the plan, or was so connected at any time before the benefits become provided, shall, unless the Minister is notified in writing that the benefits are provided in respect of the member, be deemed to be unacceptable to the Minister; and

(*e*) the plan contains such terms as may be required by the Minister.

Conditions Applicable After 1991 to Benefits Under Grandfathered Plan

(2) For the purpose of the condition in paragraph 8502(*c*) as it applies after 1991 with respect to a grandfathered plan, subsections 8503(2) and (3) and section 8504 are modified as follows:

(*a*) the condition in subparagraph 8503(2)(*b*)(ii) is replaced by the condition that the amount of bridging benefits payable to a member for a particular month does not exceed the amount determined in respect of the month by the formula

$$\left(A \times C \times \frac{E}{F}\right) + \left(G \times \left(1 - \frac{E}{F}\right)\right)$$

where

A is the amount determined for A under subparagraph 8503(2)(*b*)(ii) in respect of the member for the month,

C is the amount determined for C under subparagraph 8503(2)(*b*)(ii) in respect of the member for the month,

E is the aggregate of all amounts each of which is the duration (measured in years, including any fraction of a year) of a period ending before 1992 that is pensionable service of the member under the provision,

F is the aggregate of all amounts each of which is the duration (measured in years, including any fraction of a year) of a period that is pensionable service of the member under the provision, and

G is the amount determined in respect of the member for the month by the formula in subparagraph 8503(2)(*b*)(ii);

(*b*) the conditions in paragraphs 8503(3)(*c*), (*h*) and (i) and 8504(1)(*a*) and (*b*) apply only with respect to lifetime retirement benefits provided in respect of periods after 1991; and

(*c*) for the purposes of the conditions in paragraphs 8504(1)(*a*) and (*b*),

(i) the aggregate determined under subparagraph 8504(1)(*a*)(i) does not include an amount in respect of 1991, and

(ii) the amount determined for G under subparagraph 8504(1)(*a*)(ii) is based only on periods of pensionable service after 1991.

Additional Prescribed Condition for Grandfathered Plan After 1991

(3) The prescribed conditions for the registration of a grandfathered plan include, after 1991, the condition that all benefits provided under each defined benefit provision of the plan in respect of periods before 1992 are acceptable to the Minister.

Defined Benefits Under Grandfathered Plan Exempt From Conditions

(4) The Minister may, after 1991, exempt from the condition in paragraph 8502(*c*) the following benefits provided under a defined benefit provision of a grandfathered plan:

(*a*) benefits that are payable after the death of a member, to the extent that the benefits can reasonably be considered to relate to lifetime retirement benefits provided to the member in respect of periods before 1992; and

(*b*) bridging benefits in excess of bridging benefits permissible under paragraph 8503(2)(*b*), to the extent that the excess bridging benefits are vested in a member on December 31, 1991.

Conditions Not Applicable to Grandfathered Plan

(5) Where a pension plan is a grandfathered plan,

(*a*) the conditions referred to in paragraph 8501(2)(*b*) do not apply before 1992 with respect to the plan;

(*b*) the condition in paragraph 8502(*d*) does not apply with respect to distributions made before 1992 under a defined benefit provision of the plan; and

(*c*) the conditions in paragraphs 8503(3)(*a*) and (*b*) do not apply with respect to benefits provided under a defined benefit provision of the plan in respect of periods before 1992.

PA Limits for Grandfathered Plan for 1991

(6) Subsections 147.1(8) and (9) of the Act do not apply with respect to a grandfathered plan for a calendar year before 1992 if

(*a*) the plan does not contain a money purchase provision in that year; or

(*b*) no contributions are made in respect of that year under the money purchase provisions of the plan.

Limit on Pre-Age 65 Benefits

(7) Where a pension plan is a grandfathered plan or would be a grandfathered plan if the references to "March 27, 1988" in the definitions "existing plan" and "grandfathered plan" were read as "June 7, 1990" and the references to "March 28, 1988" in the definition "existing plan" were read as "June 8, 1990", subsection 8504(5) is modified as follows as it applies with respect to the plan:

(*a*) the conditions in paragraphs 8504(5)(*a*) and (*b*) apply only with respect to retirement benefits provided in respect of periods after 1991; and

(*b*) the amounts determined for B and D under paragraph 8504(5)(*a*) are based only on periods of pensionable service after 1991.

Benefit Accrual Rate Greater Than 2 Per Cent

(8) Where a pension plan is a grandfathered plan or would be a grandfathered plan if the references to "March 27, 1988" in the definitions "existing plan" and "grandfathered plan" were read as "[Release Date]" and the references to "March 28, 1988" in the definition "existing plan" were read as "[Release Date + 1 day]",

(*a*) the condition in paragraph 8503(3)(*g*) applies only with respect to lifetime retirement benefits provided under a defined benefit provision of the plan in respect of periods after 1994; and

(*b*) subparagraph 8503(3)(*h*)(iv) is not applicable with respect to lifetime retirement benefits provided under a defined benefit provision of the plan to a member unless the formula for determining the amount of the member's lifetime retirement benefits complies with the condition in paragraph 8503(3)(*g*) as that condition would, but for this subsection, apply.

Benefits Under Plan Other Than Grandfathered Plan

(9) The following rules apply with respect to the benefits provided under a defined benefit provision of a pension plan that is not a grandfathered plan:

(*a*) the condition in paragraph 8502(*c*) does not apply with respect to benefits provided in respect of an individual

(i) to whom retirement benefits have commenced to be paid under the provision before 1992, or

(ii) who has died before 1992; and

(*b*) the prescribed conditions for the registration of the plan include the condition that all benefits referred to in paragraph (*a*) are acceptable to the Minister.

Money Purchase Benefits Exempt From Conditions

(10) The Minister may exempt from the condition in paragraph 8502(*c*) all or a portion of the benefits provided under a money purchase provision of a pension plan in respect of a member that may reasonably be considered to derive from contributions made before 1992 under a money purchase provision of a registered pension plan.

Benefits Acceptable to Minister

(11) For greater certainty, where benefits under a defined benefit provision of a pension plan are, by reason of paragraph 8503(3)(*e*) or subsection (3), subject to the condition that they be acceptable to the Minister, the provisions of this section shall not be considered to limit in

any way the requirements that may be imposed by the Minister with respect to the benefits.

MULTI-EMPLOYER PLANS AND SPECIFIED MULTI-EMPLOYER PLANS

Definition of "Multi-Employer Plan"

8510.(1) The definition "multi-employer plan" in subsection 8500(1) is applicable for the purposes of subsection 147.1(1) of the Act.

Definition of "Specified Multi-Employer Plan"

(2) For the purposes of this Part and subsection 147.1(1) of the Act, "specified multi-employer plan" in a calendar year means a pension plan

(*a*) in respect of which the conditions in subsection (3) are satisfied at the beginning of the year (or at the time in the year when the plan is established, if later),

(*b*) that has, on application by the plan administrator, been designated in writing by the Minister to be a specified multi-employer plan in the year, or

(*c*) that was, by reason of paragraph (*a*), a specified multi-employer plan in the immediately preceding calendar year (where that year is after 1989),

but does not include a pension plan where the Minister has, before the beginning of the year, given notice by registered mail to the plan administrator that the plan is not a specified multi-employer plan.

Qualification as a Specified Multi-Employer Plan

(3) The conditions referred to in paragraph (2)(*a*) are the following:

(*a*) it is reasonable to expect that at no time in the year will more than 95% of the active members of the plan be employed by a single participating employer or by a related group of participating employers;

(*b*) where the year is 1991 or a subsequent year, it is reasonable to expect that

(i) at least 15 employers will contribute to the plan in respect of the year, or

(ii) at least 10% of the active members of the plan will be employed in the year by more than one participating employer,

and for the purposes of this condition, all employers who are related to each other shall be deemed to be a single employer;

(*c*) employers participate in the plan pursuant to a collective bargaining agreement;

(*d*) all or substantially all of the employers who participate in the plan are persons who are not exempt from tax under Part I of the Act;

(*e*) contributions are made by employers in accordance with a negotiated contribution formula that does not provide for any variation in contributions determined by reference to the financial experience of the plan;

(*f*) the contributions to be made by each employer in the year are determined, in whole or in part, by reference to the number of hours worked by individual employees of the employer or some other measure that is specific to each employee in respect of whom contributions are made to the plan;

(*g*) the administrator is a board of trustees (or similar body) that is not controlled by representatives of employers; and

(*h*) the administrator has the power to determine the benefits to be provided under the plan, whether or not that power is subject to the terms of a collective bargaining agreement.

Minister's Notice

(4) For the purpose of subsection (2), the Minister may give notice that a plan is not a specified multi-employer plan only if the Minister is satisfied that participating employers will be able to comply with all reporting obligations imposed by Part LXXXIV with respect to the plan if it is not a specified multi-employer plan, and

(*a*) the notice is given at or after a time when the conditions in subsection (3) are not satisfied with respect to the plan; or

(*b*) the plan administrator has applied to the Minister for the notice.

Special Rules - Multi-Employer Plan

(5) Where a pension plan is a multi-employer plan in a calendar year,

(*a*) each member of the plan who is connected at any time in the year with an employer who participates in the plan shall be deemed, for the purposes of applying the conditions in sections 8503 and 8504 with respect to the plan in the year and in each subsequent year, not to be so connected in the year;

(*b*) paragraph 8503(3)(*b*) shall, in its application with respect to benefits provided under a defined benefit provision of the plan in respect of a period in the year, be read without reference to subparagraph (ii) thereof; and

(*c*) the condition in paragraph 8503(3)(*k*) and the rule in subsection 8504(8) shall apply in the year with respect to the plan without regard to benefits provided under any other pension plan.

Special Rules - Specified Multi-Employer Plan

(6) Where a pension plan is a specified multi-employer plan in a calendar year,

(*a*) a contribution made in the year in respect of a defined benefit provision of the plan that is made by an employer in respect of the employer's employees or former employees and that is made in accordance with the plan as registered shall be deemed, for the purpose of paragraph 8502(*b*), to be an eligible contribution;

(*b*) subparagraph 8502(*c*)(i) shall, in its application in the year with respect to the plan, be read as follows:

> "(i) benefits that are in accordance with subsection 8503(2), paragraphs 8503(3)(*c*), (*e*) and (*g*) and subsections 8504(5) and (6)";

(*c*) the conditions in paragraphs 8503(3)(*j*) and (4)(*a*) do not apply in the year with respect to the plan.

Additional Prescribed Conditions

(7) Where a pension plan is a specified multi-employer plan in a calendar year, the prescribed conditions for the registration of the plan include, in that year, the following conditions:

(*a*) when employer and member contribution rates under the plan were last established, it was reasonable to expect that, for each calendar year commencing with the year in which the contribution rates were last established,

(i) the aggregate of all amounts each of which is the pension credit of an individual for the year in respect of an employer under a benefit provision of the plan

would not exceed

(ii) 18% of the aggregate of all amounts each of which is, for an individual and an employer where the pension credit of the individual for the year in respect of the employer under a benefit provision of the plan is greater than nil, the compensation of the individual from the employer for the year,

except that this condition does not apply for years before 1992 in the case of a pension plan that is a grandfathered plan; and

(*b*) where the plan contains a money purchase provision,

(i) the plan terms are such that, if subsection 147.1(9) of the Act were applicable with respect to the plan, the plan would not under any circumstances become a revocable plan at the end of the year pursuant to that subsection, or

(ii) if the plan terms do not comply with the condition in subparagraph (i), the only circumstances that would result in the plan becoming a revocable plan at the end of the year pursuant to subsection 147.1(9) of the Act, if that subsection were applicable with respect to the plan, are circumstances acceptable to the Minister.

Purchase of Additional Benefits

(8) Where, in the case of a pension plan that is a specified multi-employer plan in a calendar year,

(*a*) the amount of lifetime retirement benefits provided under a defined benefit provision of the plan to each member is determined by reference to the hours of employment of the member with participating employers,

(*b*) the plan permits a member whose actual hours of employment in a period are less than a specified number of hours for the period to make contributions to the plan in order to increase, to an amount not exceeding the specified number of hours for the period, the number of hours that are treated under the provision as hours of employment of the member in the period, and

(*c*) the specified number of hours for a period does not exceed a reasonable measure of the actual hours of employment of members who render services throughout the period on a full-time basis,

the condition in paragraph 8503(3)(*a*) does not apply with respect to such portion of the lifetime retirement benefits provided under the provision to a member as is determined by reference to hours acquired by the member as a consequence of contributions made to the plan in the year by the member, as described in paragraph (*b*).

CONDITIONS APPLICABLE TO AMENDMENTS

8511.(1) For the purposes of paragraph 147.1(4)(*c*) of the Act, the following conditions are prescribed with respect to an amendment to a registered pension plan:

(*a*) where the amendment increases the accrued lifetime retirement benefits provided to a member under a defined benefit provision of the plan, the increase is not, in the opinion of the Minister, inconsistent with the conditions in paragraphs 8503(3)(*h*) and (*i*); and

(*b*) where the plan is a grandfathered plan and the amendment increases the bridging benefits provided to a member under a defined benefit provision of the plan, the member's bridging benefits, as amended, comply with the condition in subparagraph 8503(2)(*b*)(ii) that would apply if the plan were not a grandfathered plan.

(2) Where an amendment to a registered pension plan provides for the return to a member of all or any part of the contributions made by the member under a defined benefit provision of the plan, the plan becomes a revocable plan at any time that an amount (other than an amount that qualifies under subsection 147.3(6) of the Act for transfer to another registered pension plan or a registered retirement savings plan) payable to the member as a consequence of the amendment is not paid to the member as soon after the amendment as is practicable.

REGISTRATION AND AMENDMENT

8512.(1) For the purposes of subsection 147.1(2) of the Act, an application for registration of a pension plan shall be made by forwarding by registered mail to the Deputy Minister of National Revenue for Taxation at Ottawa the following documents:

(*a*) an application in prescribed form containing prescribed information;

(*b*) certified copies of the plan text and any other documents that contain terms of the plan;

(*c*) certified copies of all trust deeds, insurance contracts and other documents relating to the funding of benefits under the plan;

(*d*) certified copies of all agreements relating to the plan; and

(*e*) certified copies of all resolutions and by-laws relating to the documents referred to in paragraphs (b) to (d).

(2) Where, after 1988, an amendment is made to a registered pension plan, to the arrangement for funding benefits thereunder or to a document that has been filed with the Minister in respect of the plan, the plan administrator shall, within 60 days after the date on which the amendment is made, forward to the Deputy Minister of National Revenue for Taxation at Ottawa

(*a*) a prescribed form containing prescribed information; and

(*b*) certified copies of all documents relating to the amendment.

(3) For the purposes of subsection 147.1(4) of the Act, an application for the acceptance of an amendment to a registered pension plan is made in prescribed manner where the documents required by subsection (2) are forwarded by registered mail to the Deputy Minister of National Revenue for Taxation at Ottawa.

DESIGNATED LAWS

8513. For the purposes of paragraph 8302(3)(*m*), subparagraph 8502(*c*)(iii) and paragraph 8517(5)(*f*), "designated provision of the law of Canada or a province" means subsection 21(2) of the *Pension Benefits Standards Act, 1985* and any provision of the law of a province that is similar to that subsection.

PROHIBITED INVESTMENTS

8514.(1) For the purposes of subparagraph 8502(*h*)(i) and subject to subsections (2) and (3), a prohibited investment with respect to a registered pension plan is a share of the capital stock of, an interest in, or a debt of

(*a*) an employer who participates in the plan,

(*b*) a person connected with an employer who participates in the plan,

(*c*) a member of the plan,

(*d*) a person or partnership that controls, directly or indirectly in any manner whatever, a person or partnership referred to in paragraph (*a*) or (*b*), or

(*e*) a person or partnership that does not deal at arm's length with a person or partnership referred to in paragraph (*a*), (*b*), (*c*) or (*d*),

or an interest in, or a right to acquire, such a share, interest or debt.

(2) A prohibited investment does not include

(*a*) a bond, debenture, note, mortgage, hypothec or similar obligation described in clause 212(1)(*b*)(ii)(C) of the Act;

(*b*) a share listed on a stock exchange referred to in section 3200 or 3201;

(*c*) a bond, debenture, note or similar obligation of a corporation any shares of which are listed on a stock exchange referred to in section 3200 or 3201;

(*d*) an interest in, or a right to acquire, property referred to in paragraph (*b*) or (*c*); or

(*e*) a mortgage in respect of real property situated in Canada that

(i) where this condition has not been waived by the Minister and the amount paid for the mortgage together with the amount of any indebtedness outstanding at the time the mortgage was acquired under any mortgage or hypothec ranking equally with or superior to the mortgage exceeds 75% of the fair market value, at that time, of the real property subject to the mortgage, is insured under the National Housing Act or by a corporation offering its services to the public in Canada as an insurer of mortgages,

(ii) where the registered pension plan in connection with which the mortgage is held would be a designated plan for the purposes of subsection 8515(5) if subsection 8515(4) were read without reference to paragraph (*b*) thereof, is administered by an approved lender under the National Housing Act, and

(iii) bears a rate of interest that would be reasonable in the circumstances if the mortgagor dealt with the mortgagee at arm's length.

(3) A prohibited investment with respect to a registered pension plan does not include an investment acquired by the plan before March 28, 1988.

(4) For the purposes of subsection (3), where at any time after March 27, 1988, the principal amount of a bond, debenture, note, mortgage, hypothec or similar obligation increases as a consequence of the advancement or lending of additional amounts or the maturity date of such an obligation is extended, the obligation shall, after that time, be deemed to have been issued at that time.

SPECIAL RULES FOR DESIGNATED PLANS

Designated Plan

8515.(1) For the purposes of subsections (5) and (9), and subject to subsection (3), a registered pension plan that contains a defined benefit provision is a designated plan throughout a calendar year if the plan is not maintained pursuant to a collective bargaining agreement and

(*a*) the aggregate of all amounts each of which is a pension credit (as determined under Part LXXXIII) for the year of a specified individual under a defined benefit provision of the plan

exceeds

(*b*) 50% of the aggregate of all amounts each of which is a pension credit (as determined under Part LXXXIII) for the year of an individual under a defined benefit provision of the plan.

Designated Plan in Previous Year

(2) For the purposes of subsections (5) and (9), a registered pension plan is a designated plan throughout a particular calendar year after 1990 if the plan was a designated plan at any time in the immediately preceding year, except where

(*a*) the plan would not, but for this subsection, be a designated plan in the particular year, and

(*b*) the Minister has waived in writing the application of this subsection with respect to the plan.

Exception

(3) A registered pension plan is not a designated plan in a calendar year pursuant to subsection (1) if

(*a*) the plan would not be a designated plan in the year pursuant to that subsection if the reference in paragraph (1)(*b*) to "50%" were read as a reference to "60%",

(*b*) the plan was established before the year, and (*c*) the amount determined under paragraph (1)(*a*) in respect of the plan for the immediately preceding year did not exceed the amount determined under paragraph (1)(*b*),

or if

(*d*) there are more than 9 active members of the plan in the year, and

(*e*) the Minister has given written notice to the administrator of the plan that the plan is not a designated plan in the year.

Specified Individual

(4) An individual is a specified individual for the purposes of paragraph (1)(*a*) as it applies with respect to a pension plan and a particular calendar year if

(*a*) the individual was connected at any time in the year with an employer who participates in the plan, or

(*b*) the aggregate of all amounts each of which is the remuneration of the individual for the year from an employer who participates in the plan, or from an employer who does not deal at arm's length with a participating employer, exceeds 2½ times the Year's Maximum Pensionable Earnings for the year.

Eligible Contributions

(5) For the purpose of determining whether a contribution made by an employer to a registered pension plan at a time when the plan is a designated plan is an eligible contribution under subsection 147.2(2) of the Act, a prescribed condition is that

(*a*) the contribution satisfies the condition in subsection (6), or

(*b*) the contribution would satisfy the condition in subsection (6) if

(i) paragraph (6)(*b*) and subparagraph (7)(*e*)(i) were applicable only in respect of retirement benefits that became provided after 1990,

(ii) paragraph (6)(*c*) were applicable only in respect of those benefits payable after the death of a member that relate to retirement benefits that became provided to the member after 1990, and

(iii) the assumption as to the time at which retirement benefits (other than retirement benefits that became provided after 1990) will commence to be paid is the same for the purposes of the maximum funding valuation as for the purposes of the actuarial valuation that forms the basis for the recommendation referred to in subsection 147.2(2) of the Act pursuant to which the contribution is made.

Funding Restriction

(6) The condition referred to in subsection (5) is that the contribution would be required to be made for the plan to have sufficient assets to pay benefits under the defined benefit provisions of the plan, as registered, in respect of the employees and former employees of the employer if

(*a*) required contributions were determined on the basis of a maximum funding valuation prepared as of the same effective date as the actuarial valuation that forms the basis for the recommendation referred to in subsection 147.2(2) of the Act pursuant to which the contribution is made;

(*b*) each defined benefit provision of the plan provided that, after retirement benefits commence to be paid in respect of a restricted-funding member, the benefits are adjusted annually by a percentage increase for each year that is one percentage point less than the percentage increase in the Consumer Price Index for the year, in lieu of any cost-of-living adjustments actually provided;

(*c*) each defined benefit provision of the plan provided the following benefits after the death of a restricted-funding member who dies after retirement benefits under the provision have commenced to be paid to the member, in lieu of the benefits actually provided:

(i) where the member dies within 5 years after retirement benefits commence to be paid under the provision, the continuation of the retirement benefits for the remainder of the 5 years as if the member were alive, and

(ii) where an individual who is a spouse of the member when retirement benefits commence to be paid under the provision to the member is alive on the later of the day of death of the member and the day that is 5 years after the day on which the member's retirement benefits commence to be paid, retirement benefits payable to the individual for the duration of the individual's life, with the amount of the benefits payable for each month equal to 66 2/3% of the amount of retirement benefits that would have been payable under the provision for the month to the member if the member were alive;

(*d*) where more than one employer participates in the plan, assets and actuarial liabilities were apportioned in a reasonable manner among participating employers in respect of their employees and former employees; and

(*e*) the rule in paragraph 147.2(2)(*d*) of the Act providing for the disregard of a portion of the assets of the plan apportioned to the employer in respect of the employer's employees and former employees were applicable for the purpose of determining required contributions pursuant to this subsection.

Maximum Funding Valuation

(7) For the purposes of subsection (6), a maximum funding valuation is a valuation prepared by an actuary in accordance with the following rules:

(*a*) the projected accrued benefit method is used for the purpose of determining actuarial liabilities and current service costs;

(*b*) the valuation rate of interest is 7.5% per annum;

(*c*) it is assumed that

(i) the rate of increase in general wages and salaries and in each member's rate of remuneration will be 5.5% per annum, and

(ii) the rate of increase in the Consumer Price Index will be 4% per annum;

(*d*) each assumption made with respect to economic factors other than those referred to in paragraph (*c*) is consistent with the assumptions in that paragraph;

(*e*) in the case of a restricted-funding member, it is assumed that

(i) retirement benefits will commence to be paid to the member on the later of the day on which the member attains 65 years of age and the effective date of the valuation;

(ii) the member will survive to the time when the member's retirement benefits commence to be paid,

(iii) where the member is employed by a participating employer as of the effective date of the valuation, the member will continue in employment until the time when the member's retirement benefits commence to be paid, and

(iv) when the member's retirement benefits commence to be paid, the member will be married to a person who is the same age as the member;

(*f*) the rate of mortality at each age is equal to 80% of the average of the rates at that age for males and females in the *1983 Group Annuity Mortality Table*, as published in Volume XXXV of the *Transactions of the Society of Actuaries*:

(*g*) it is assumed that where a member has a choice between receiving retirement benefits or a lump sum payment, retirement benefits will be paid to the member; and

(*h*) the plan's assets are valued at an amount equal to their fair market value as of the effective date of the valuation.

Restricted-Funding Member

(8) For the purposes of subsections (6) and (7) as they apply in respect of a contribution made to a registered pension plan, a member of the plan is a restricted-funding member if, at the time at which the maximum funding valuation is prepared,

(*a*) the member has a right, whether absolute or contingent, to receive retirement benefits under a defined benefit provision of the plan and the benefits have not commenced to be paid, or

(*b*) the payment of retirement benefits under a defined benefit provision of the plan to the member has been suspended.

Member Contributions

(9) Where

(*a*) a member of a registered pension plan makes a contribution to the plan to fund benefits that have become provided at a particular time under a defined benefit provision of the plan in respect of periods before that time,

(*b*) the contribution is made at a time when the plan is a designated plan, and

(*c*) the contribution would not be an eligible contribution under subsection 147.2(2) of the Act if it were made by an employer who participates in the plan on behalf of the member,

the plan becomes, for the purposes of paragraph 147.1(11)(*c*) of the Act, a revocable plan immediately before the time at which the contribution is made.

ELIGIBLE CONTRIBUTIONS – TRANSITION RULES

Prescribed Contribution

8516.(1) For the purposes of subsection 147.2(2) of the Act, a contribution described in any of subsections (2) to (6) made by an employer to a registered pension plan in respect of the defined benefit provisions of the plan is a prescribed contribution.

Amortization of Excess Actuarial Surplus

(2) A contribution made by an employer to a registered pension plan is described in this subsection if

(*a*) it is made to the plan before 1995;

(*b*) the recommendation pursuant to which the contribution is made is such that the contributions required to be made by the employer in respect of the defined benefit provisions of the plan do not exceed the contributions that would be required if

(i) except as provided in subparagraph (ii), the contributions to be made by the employer were determined without regard to the actuarial surplus under the provisions, and

(ii) the contributions to be made by the employer after 1990 were determined on the basis that the excess actuarial surplus under the provisions in respect of the employer becomes available uniformly throughout the period commencing on the later of January 1, 1991 and the effective date of the actuarial valuation prepared in connection with the recommendation and ending December 31, 1994 to fund benefits under the provisions, in lieu of contributions that would otherwise be required to be made by the employer,

and, for the purposes of this paragraph, the amount of the excess actuarial surplus under the defined benefit provisions of a pension plan in respect of an employer is, in relation to a recommendation pursuant to which contributions are made by the employer, the amount, if any, by which the amount of the actuarial surplus under the provisions in respect of the employer exceeds the aggregate of

(iii) the lesser of the amounts determined under subparagraphs 147.2(2)(*d*)(ii) and (iii) of the Act in relation to the employer and the recommendation, and

(iv) where the effective date of the actuarial valuation prepared in connection with the recommendation is before 1991, the amount, if any, by which

(A) the aggregate amount of current service contributions that would, but for the actuarial surplus, have been required to be made in respect of the provisions by the employer and the employer's employees for the period from the effective date of the actuarial valuation to December 31, 1990

exceeds

(B) the aggregate amount of current service contributions for that period made in the period by the employer and the employer's employees; and

(*c*) the contribution would be an eligible contribution under subsection 147.2(2) of the Act if no contributions were prescribed for the purposes of that subsection and that subsection were read without reference to subparagraphs (*d*)(ii) and (iii) thereof.

Approval Under Paragraph 20(1)(s)

(3) A contribution made by an employer to a registered pension plan is described in this subsection if

(*a*) the Minister has approved the contribution under paragraph 20(1)(*s*) of the Act; and

(*b*) the contribution would have been deductible under paragraph 20(1)(*s*) of the Act had that paragraph been applicable to the taxation year of the employer in which the contribution was made.

Contribution Pursuant to Collective Bargaining Agreement

(4) A contribution made by an employer to a registered pension plan is described in this subsection if

(*a*) it is made to the plan before 1994; and

(*b*) it is made pursuant to a collective bargaining agreement that was entered into before 1990.

Contribution Pursuant to Statute or By-Law

(5) A contribution made by an employer to a registered pension plan is described in this subsection if

(*a*) it is made to the plan in 1991;

(*b*) it is made pursuant to a formula in a statute or by-law that was in existence on March 27, 1988; and

(*c*) the formula has not been amended after March 27, 1988 and before the time at which the contribution is made.

Employer Not Entitled to Reduce Contributions

(6) A contribution made by an employer to a registered pension plan is described in this subsection if

(*a*) it is made to the plan before 1994;

(*b*) either

(i) the terms of the plan require that contributions made by the employer in respect of the defined benefit provisions of the plan be determined without regard to any actuarial surplus under the provisions, or

(ii) there is a dispute as to whether the terms of the plan have the effect described in subparagraph (i) and steps are being taken to resolve the dispute;

(*c*) the contribution would be an eligible contribution under subsection 147.2(2) of the Act if no contributions were prescribed for the purposes of that subsection and that subsection were read without reference to subparagraphs (*d*)(ii) and (iii) thereof; and

(*d*) the contribution is acceptable to the Minister.

TRANSFER -- DEFINED BENEFIT TO MONEY PURCHASE

Prescribed Amount

8517.(1) For the purposes of paragraph 147.3(4)(*c*) of the Act as it applies with respect to the transfer of an amount on behalf of an individual in full or partial satisfaction of the individual's entitlement to benefits under a defined benefit provision of a registered pension plan, and subject to subsections (2) and (3), the prescribed amount is the amount determined by the formula

$$A \times B$$

where

A is the amount of the individual's lifetime retirement benefits under the provision commuted in connection with the transfer, as determined under subsection (4), and

B is

(*a*) except where paragraph (*b*) is applicable, the present value factor that corresponds to the age attained by the individual at the time of the transfer, determined pursuant to the table following paragraph (*b*), and

(*b*) where the present value factor referred to in paragraph (*a*) is less than the present value factor that corresponds to the next higher age, the present value factor determined by interpolation between those two factors on the basis of the age (expressed in years, including any fraction of a year) of the individual.

Attained Age	Present Value Factor
Under 50	9.0
50	9.4
51	9.6
52	9.8
53	10.0
54	10.2
55	10.4
56	10.6
57	10.8
58	11.0
59	11.3
60	11.5
61	11.7
62	12.0
63	12.2
64	12.4
65	12.4
66	12.0
67	11.7
68	11.3
69	11.0
70	10.6
71	10.3
72 or over	0.0

Minimum Prescribed Amount

(2) Where an amount is transferred in full satisfaction of an individual's entitlement to benefits under a defined benefit provision of a registered pension plan, the prescribed amount for the purposes of paragraph 147.3(4)(*c*) of the Act, as it applies with respect to the transfer, is the greater of the amount that would, but for this subsection, be the prescribed amount, and the balance, at the time of the transfer, in the member's net contribution account (within the meaning assigned by subsection 8503(1)) in relation to the provision.

Plan Wind-Up or Replacement

(3) Where an amount is transferred before January 1, 1993, or such later date as is acceptable to the Minister, on behalf of an individual as a consequence of the winding-up of a registered pension plan, or as a consequence of the replacement of a defined benefit provision of a registered pension plan by a money purchase provision of another registered pension plan, and either

(*a*) the winding-up of the plan or the replacement of the provision commenced at a time (in this subsection referred to as the "time of termination") before 1989,

(*b*) at the time of termination, the plan had at least 50 members, and

(*c*) the plan was established at least 5 years before the time of termination,

or the condition in paragraph (*a*) is satisfied and the Minister waives the conditions in paragraphs (*b*) and (*c*), the prescribed amount for the purposes of paragraph 147.3(4)(*c*) of the Act, as it applies with respect to the transfer, is the amount so transferred.

Amount of Lifetime Retirement Benefits Commuted

(4) For the purposes of subsection (1) and subject to subsection (7), the amount of an individual's lifetime retirement benefits under a defined benefit provision of a registered pension plan commuted in connection with the transfer of an amount on behalf of the individual in full or partial satisfaction of the individual's entitlement to benefits under the provision is the aggregate of,

(*a*) where retirement benefits have commenced to be paid under the provision to the individual, the amount (expressed on an annualized basis) by which the individual's lifetime retirement benefits under the provision are reduced as a result of the transfer;

(*b*) where retirement benefits have not commenced to be paid under the provision to the individual, the amount (expressed on an annualized basis) by which the individual's normalized pension (computed in accordance with subsection (5)) under the provision at the time of the transfer is reduced as a result of the transfer; and

(*c*) where, in conjunction with the transfer, any other payment (other than an amount that is transferred in accordance with subsection 147.3(5) of the Act or that is transferred after 1991 in accordance with subsection 147.3(3) of the Act) is made from the plan in partial satisfaction of the individual's entitlement to benefits under the provision, the amount (expressed on an annualized basis) by which

(i) if paragraph (*a*) is applicable, the individual's lifetime retirement benefits under the provision are reduced, and

(ii) if paragraph (*b*) is applicable, the individual's normalized pension (computed in accordance with subsection (5)) under the provision at the time of the payment is reduced

as a result of the payment, except to the extent that such reduction is included in determining, for the purposes of subsection (1), the amount of the individual's lifetime retirement benefits under the provision commuted in connection with the transfer of another amount on behalf of the individual.

Normalized Pension

(5) For the purposes of subsection (4), the normalized pension of an individual under a defined benefit provision of a registered pension plan at a particular time is the amount (expressed on an annualized basis) of lifetime retirement benefits that would be payable under the provision at the particular time if

(*a*) lifetime retirement benefits commenced to be paid to the individual at the particular time;

(*b*) where the individual has not attained 65 years of age before the particular time, the individual attained such age at the particular time;

(*c*) all benefits to which the individual is entitled under the provision were fully vested;

(*d*) where the amount of the individual's lifetime retirement benefits would otherwise be determined with a reduction computed by reference to the individual's age, duration of service or both, or with any other similar reduction, no such reduction were applied;

(*e*) where the amount of the individual's lifetime retirement benefits depends on the amount of benefits provided under another benefit provision of the plan or under another plan or arrangement, a reasonable estimate were made of such other benefits;

(*f*) where the individual's lifetime retirement benefits would otherwise include benefits that the plan is required to provide by reason of a designated provision of the law of Canada or a province, or that the plan would be required to provide if each such provision were applicable to the plan in respect of all its members, such benefits were not included; and

(*g*) except as otherwise provided by subsection (6), where the amount of the individual's lifetime retirement benefits depends on

(i) the form of benefits provided in respect of the individual under the provision (whether or not at the option of the individual), including

(A) the benefits to be provided after the death of the individual,

(B) the amount of retirement benefits, other than lifetime retirement benefits, provided to the individual, or

(C) the extent to which the lifetime retirement benefits will be adjusted to reflect changes in the cost of living, or

(ii) circumstances that are relevant in determining the form of benefits, the form of benefits and the circumstances were such as to maximize the amount of the individual's lifetime retirement benefits on commencement of payment.

Optional Forms

(6) Where

(*a*) the terms of a defined benefit provision of a registered pension plan permit a member to elect to receive additional lifetime retirement benefits in lieu of benefits that would, in the absence of the election, be payable after the death of the member if the member dies after retirement benefits under the provision commence to be paid to the member, and

(*b*) the elections available to the member include

(i) an election to receive additional lifetime retirement benefits, not exceeding additional benefits determined on an actuarially equivalent basis, in lieu of all or any portion of a guarantee that retirement benefits will be paid for a minimum period of ten years or less, or

(ii) an election to receive additional lifetime retirement benefits in lieu of retirement benefits that would otherwise be payable to a spouse or former spouse (in this subparagraph referred to as the "spouse") of the member for a period commencing after the death of the member and ending with the death of the spouse, where

(A) the election may be made only if the life expectancy of the spouse is significantly shorter than normal and has been so certified in writing by a medical doctor licensed to practise under the laws of a province of Canada or of the place where the spouse resides, and

(B) the additional benefits do not exceed additional benefits determined on an actuarially equivalent basis and on the assumption that the spouse is in normal health,

paragraph (5)(*g*) applies as if

(*c*) the election described in subparagraph (*b*)(i) were not available to the member, and (*d*) where the particular time at which the normalized pension of the member is determined under subsection (5) is after 1991, the election described in subparagraph (*b*)(ii) were not available to the member.

Replacement Benefits

(7) Where

(*a*) an amount is transferred on behalf of an individual in full or partial satisfaction of the individual's entitlement to benefits under a defined benefit provision (in this paragraph referred to as the "particular provision") of a registered pension plan,

(*b*) in conjunction with the transfer, benefits become provided to the individual under another defined benefit provision of the plan or under a defined benefit provision of another registered pension plan, and

(*c*) an employer who participated under the particular provision for the benefit of the individual also participates under the other provision for the individual's benefit,

the amount of the individual's lifetime retirement benefits under the particular provision commuted in connection with the transfer is the amount that would be determined under subsection (4) if the benefits provided under the other provision were provided under the particular provision.

PENSION ADJUSTMENT LIMITS

8518.(1) Subsection 147.1(8) of the Act does not apply to render a registered pension plan a revocable plan at the end of a calendar year by reason that a pension adjustment, or an aggregate of pension adjustments, of an individual for the year is excessive if the subsection would not so apply if the individual's pension adjustments for the year were determined without the inclusion of those pension credits, if any, of the individual for the year under deferred profit sharing plans as are described in subsection (2).

(2) For the purposes of subsection (1), a pension credit (as determined under Part LXXXIII) of an individual for a year under a deferred profit sharing plan is described in this subsection if

(*a*) it is a pension credit in respect of an employer by whom the individual ceased to be employed in the year; and

(*b*) it includes the amount of a contribution made to the plan in the year by the employer in respect of the individual that was based, in whole or in part, on the individual's remuneration for the preceding year.

ASSOCIATION OF BENEFITS WITH TIME PERIODS

8519. Where, for the purposes of this Part, Part LXXXIII or subsection 147.1(10) of the Act, it is necessary to associate benefits provided under a defined benefit provision of a pension plan with periods of time, the association shall be made in a manner acceptable to the Minister.

MINISTER'S ACTIONS

8520. For the purposes of this Part,

(*a*) a waiver, extension of time or other modification of the requirements of this Part granted by the Minister, or

(*b*) an approval by the Minister in respect of any matter

is not effective unless it is in writing and expressly refers to the requirement that is modified or the matter in respect of which the approval is given."

8. The said Regulations are further amended by substituting the expression "registered pension plan" for the expression "registered pension fund or plan" wherever the latter expression occurs and, in particular, in the following provisions, with such modifications as the circumstances require:

(*a*) subsection 231(7);

(*b*) paragraph 900(7)(*c*);

(*c*) paragraph 900(9)(*b*);

(*d*) the definition "qualified annuity" in subsection 1404(2);

(*e*) the title to Part XXVII;

(*f*) subparagraph 2700(2)(*a*)(i);

(*g*) the definition "employer's contribution" in subsection 2700(3);

(*h*) paragraph 4802(*b*);

(*i*) the definition "resource property trust" in subsection 5000(7);

(*j*) paragraph 5101(1)(a).

9. (1) Sections 1 and 2 are applicable with respect to payments made after 1990.

(2) Section 3 is applicable with respect to transfers and payments made after 1987.

(3) Section 4 is applicable after 1990.

(4) Section 5 is applicable to taxation years commencing after 1990.

(5) Section 6 is applicable after October 8, 1986, except that in its application before December 12, 1988, paragraph 6802(*c*) of the said Regulations, as enacted by section 6, shall be read as follows:

"(*c*) a plan under the *Unemployment Insurance Act, 1971;*"

(6) Part LXXXIII of the said Regulations, as enacted by section 7, is applicable after 1989 except that,

(*a*) in its application with respect to amounts paid to pension plans before 1991, the definition "excluded contribution" in subsection 8300(1) shall be read as follows:

""excluded contribution" to a registered pension plan means an amount paid to the plan that is

(*a*) transferred to the plan in accordance with any of subsections 146(16), 147(19) and 147.3(1) to (7) of the Act, or (*b*) deductible, as a consequence of the payment, under paragraph 60(*j*) or (*j*.1) of the Act in computing the income of any taxpayer for a taxation year;"

(*b*) before 1991, subsections 8301(2) and (3) of the said Regulations shall be read without reference to the expression "and subsection 147(5.1) of the Act";

(*c*) subsection 8307(6) of the said Regulations is applicable after 1990; and

(*d*) subsection 8307(7) of the said Regulations is applicable to the 1991 and subsequent taxation years.

(7) Sections 8400 to 8405, 8409 and 8410 of the said Regulations, as enacted by section 7, are applicable after 1989 except that

(*a*) any return otherwise required to be filed under section 8402 or 8403 or subsection 8409(1) of the said Regulations before the particular day that is 60 days after the day on which section 7 is published in the *Canada Gazette* shall be deemed to have been filed as required if it is filed on or before the particular day;

(*b*) any copy of a return or form otherwise required under subsection 8404(2) or (3) of the said Regulations to be forwarded to an individual before the particular day that is 60 days after the day on which section 7 is published in the *Canada Gazette* shall be deemed to have been forwarded as required if it is forwarded on or before the particular day;

(*c*) any return otherwise required by reason of section 8405 of the said Regulations to be filed before February 28, 1991 shall be deemed to have been filed as required if it is filed on or before February 28, 1991; and

(*d*) subsection 8409(3) of the said Regulations is applicable with respect to final distributions of property held in connection with registered pension plans where the distribution is made after 1989, and any return otherwise required to be filed under subsection 8409(3) of the said Regulations before the particular day that is 60 days after the day on which section 7 is published in the *Canada Gazette* shall be deemed to have been filed as required if it is filed on or before the particular day.

(8) Part LXXXV of the said Regulations, as enacted by section 7, is applicable after 1988 except that

(*a*) subsection 8512(1) of the said Regulations is applicable as of the day on which section 7 is published in the *Canada Gazette*;

(*b*) any form or document otherwise required by subsection 8512(2) of the said Regulations to be forwarded to the Deputy Minister of National Revenue for Taxation before the particular day that is 60 days after the day on which section 7 is published in the *Canada Gazette* shall be deemed to have been forwarded as required if it is forwarded on or before the particular day; and

(*c*) subsection 8515(5) of the said Regulations is applicable

(i) with respect to contributions made after 1991 to a pension plan that was registered by the Minister on or before [Release Date] for the purposes of the *Income Tax Act*, and

(ii) with respect to contributions made after 1990 to a pension plan that is registered by the Minister after [Release Date] for the purposes of the said Act.

(9) Section 8 is applicable after 1985.

Explanatory Notes to Proposed Legislation Relating to Saving for Retirement

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Clause 1

ITR
100(1)

Subsection 100(1) of the Regulations defines the term "remuneration" for the purposes of Part I of the Regulations. This Part provides rules under which tax is required to be withheld from payments of remuneration. Paragraph (*i*) of the definition of "remuneration" includes in remuneration certain payments made from registered retirement savings plans (RRSPs) but excludes periodic annuity payments and payments received in respect of an excess amount previously paid to the RRSP to the extent that the excess amount is deductible from income under subsection 146(8.2) of the Act. The definition of "remuneration" is amended to modify the exception for payments in respect of excess amounts paid to RRSPs. As modified, the exception applies with respect to a payment made from an RRSP if the person making the payment has reasonable grounds for believing that the payment is deductible under subsection 146(8.2) in computing the income of any taxpayer. This change, which is consequential on the amendments to subsection 146(8.2) and to the RRSP rules generally, is effective with respect to payments made from RRSPs after 1990.

Clause 2

ITR
103(6)(*c*)

Subsection 103(6) of the Regulations defines a "lump sum payment" for the purposes of subsection 103(4), which sets out the amount of tax that is required to be withheld from such payments. Paragraph 103(6)(*c*) includes in the definition certain lump sum payments made from RRSPs, but excludes a payment received in respect of an excess amount previously paid to the RRSP to the extent that the excess amount is deductible from income under subsection 146(8.2) of the Act. The paragraph is amended to modify this exception. As modified, the exception applies with respect to a payment made from an RRSP if the person making the payment has reasonable grounds for believing that the payment is deductible under subsection 146(8.2) in computing the income of any taxpayer. This change, which is analogous to the change made to the definition of "remuneration" in subsection 100(1) of the Regulations, is effective with respect to payments made from RRSPs after 1990.

Clause 3

ITR
214(5) and (7)

Subsection 214(5) of the Regulations requires reporting by issuers and annuitants in respect of transfers made from one RRSP to another RRSP in connection with the division of property on marriage breakdown. Form T2220 must be filed in respect of such transfers. Subsection 214(5) is amended to delete a reference to subparagraph 146(16)(*a*)(ii) of the Act. This amendment is consequential on an amendment to subsection 146(16). Subsection 214(5) is also amended to delete a reference to the definition of "annuitant", since a definition of this term is being added to subsection 214(7).

Subsection 214(7) of the Regulations defines the term "issuer" for the purposes of section 214 of the Regulations. Subsection 214(7) is amended to add definitions of "annuitant" and "spouse". "Annuitant" is defined to have the meaning assigned by paragraph 146(1)(*a*) of the Act. This definition is added because the term is used in more than one subsection. "Spouse" is defined to have the meaning assigned by new subsection 146(1.1) of the Act and to include a party to a voidable or void marriage. The inclusion of this definition is consequential on the extension of the transfer rule in subsection 146(16) of the Act to the breakdown of common-law relationships.

The amendments to subsections 214(5) and (7) are applicable with respect to transfers and payments made after 1987.

Clause 4

ITR
1501

Section 1501 of the Regulations prescribes, for the purposes of the definition of "deferred profit sharing plan" in subsection 147(1) of the Act, the manner in which an application for registration of a profit sharing plan is to be made. Section 1501 is amended to replace a reference to paragraph 147(1)(*a*) with a reference to the definition "deferred profit sharing plan", applicable after 1990. This amendment is consequential on an amendment to subsection 147(1) of the Act.

Clause 5

ITR
2700

Before its amendment in 1990, paragraph 20(1)(*q*) of the Act permitted an employer to deduct current service contributions made to a registered pension plan (RPP), subject to specified limits. Section 2700 of the Regulations prescribes limits for this purpose. Section 2700 is being revoked as a consequence of the introduction of section 147.2 of the Act, which provides a set of rules regarding the deductibility of contributions to RPPs.

The revocation of section 2700 is applicable to taxation years commencing after 1990. However, since the amendment to paragraph 20(1)(*q*) of the Act is applicable to the 1991 and subsequent taxation years with respect to contributions made to RPPs after 1990, section 2700 will not apply with respect to contributions made in 1991.

Clause 6

Retirement Compensation Arrangements
ITR
6802

Numerous arrangements are excluded from the definition of a "retirement compensation arrangement" (RCA) in subsection 248(1) of the Act. Paragraph (*n*) of the definition excludes prescribed plans or arrangements. New section 6802 of the Regulations prescribes, for this purpose, four specific plans and certain foreign pension plans.

Paragraphs 6802(*a*) to (*c*) prescribe the Canada Pension Plan, the Quebec Pension Plan and the plan under the Unemployment Insurance Act. Paragraph 6802(*d*) prescribes a plan that has been established for National Hockey League referees and linesmen.

Foreign pension plans established primarily for the benefit of non-resident employees are excluded from the definition of an RCA by virtue of paragraph (*l*) of the definition. However, special rules in subsection 207.6(5) of the Act apply where contributions are made to such plans for the benefit of certain employees resident in Canada. Contributions made to such a foreign pension plan in respect of services rendered by a resident of Canada are, except in certain circumstances, treated as contributions under a separate plan or arrangement that is an RCA. Paragraph 6802(*e*) prescribes, for 1990 and earlier years, such a foreign pension plan that satisfies specified conditions. The result is that the rules in subsection 207.6(5) of the Act do not apply with respect to such a prescribed plan, since it is excluded from the definition of an RCA by virtue of paragraph (*n*) of that definition. A foreign pension plan (other than a pension plan, the registration of which has been revoked) is prescribed for a particular year before 1991 by new paragraph 6802(*e*) where the following conditions are met:

> (*a*) each employer making contributions under the plan in the year is a non-resident corporation throughout the year or a non-profit organization whose assets are situated primarily outside Canada throughout the year,
>
> (*b*) where a non-resident corporation makes contributions under the foreign plan, no individual entitled to benefits under the plan is a member of a registered pension plan or a beneficiary under a deferred profit sharing plan to which any contributing employer to the foreign plan (or a person not dealing at arm's length with such an employer) has made, or is required to make, contributions in relation to the year,
>
> (*c*) a certificate of exemption with respect to non-resident withholding tax has been issued under subsection 212(14) of the Act in connection with the plan, and
>
> (*d*) contributions in the year under the plan for the benefit of individuals resident in Canada are reasonable in relation to contributions under the plan for non-resident individuals. (This condition is intended to prevent the application of the RCA exemption where contributions on behalf of Canadian residents are determined on a significantly more generous basis than contributions on behalf of non-residents.)

New section 6802 is applicable after October 8, 1986.

Clause 7

Pension Adjustments and Past Service Pension Adjustments
ITR
Part LXXXIII

Part LXXXIII is added to the Regulations to provide rules for calculating pension adjustments (PAs) and past service pension adjustments (PSPAs). These amounts enter into the determination of a taxpayer's "RRSP deduction limit" and "unused RRSP deduction room" in paragraphs 146(1)(g.1) and (*l*) of the Act. Also, subsections 147(5.1) and 147.1(8) and (9) of the Act impose limits that must be satisfied by PAs (and related amounts). These limits have the effect of restricting the benefits that can be provided under, and the contributions that can be made to, registered pension plans (RPPs) and deferred profit sharing plans (DPSPs).

Part LXXXIII also sets out, in sections 8306 and 8307, rules that apply in connection with the provision of past service benefits.

Part LXXXIII is applicable after 1989, except as noted below.

Interpretation
ITR
8300

Section 8300 contains several interpretation provisions for the purposes of Part LXXXIII of the Regulations, including the definitions of certain terms used in that Part.

ITR
8300(1)
"certifiable past service event"

Subsection 147.1(10) of the Act generally requires that a certification be obtained from the Minister of National Revenue before benefits associated with a past service event may be paid to an individual. However, the requirement for certification does not apply with respect to a past service event where the conditions set out in section 8306 are satisfied. A "certifiable past service event" is a past service event in respect of which the conditions for exemption from certification are not satisfied.

"complete period of reduced services"

A "complete period of reduced services" of an individual is a period of reduced services (as defined in subsection 8300(1)) that is not part of a longer period of reduced services.

"excluded contribution"

An "excluded contribution" paid to an RPP is an amount transferred to the plan directly from another RPP or from an RRSP or DPSP. An excluded contribution is not included in determining the pension credit of an individual under a money purchase provision of an RPP or under a defined benefit provision of a specified multi-employer plan. It is also excluded in determining, pursuant to subsection 8301(8), the pension credit of an individual under a provision of an RPP for a year in which the individual terminates employment and loses RPP benefits as a consequence.

An amount paid to an RPP in 1990 and deductible under paragraph 60(*j*) (transfer of superannuation benefits) or 60(*j*.1) (transfer of retiring allowances) of the Act is also an "excluded contribution". Those paragraphs provide deductions for qualifying RPP contributions only to the extent that the contributions are not deductible under paragraph 8(1)(*m*) of the Act. As amended, paragraph 8(1)(*m*), in conjunction with subsection 147.2(4), provides for larger deductions for RPP contributions, commencing in 1991. Hence, there will be few situations in which a money purchase contribution or a contribution to a specified multi-employer plan will be deductible under paragraph 60(*j*) or (*j*.1) rather than under paragraph 8(1)(*m*). Accordingly, the definition of "excluded contribution" does not include contributions made after 1990 that are deductible under paragraph 60(*j*) or (*j*.1).

"flat benefit provision"

A "flat benefit provision" of a pension plan is a type of defined benefit provision under which each member of the plan is promised a fixed rate of annual retirement benefits in respect of each period of service the member has worked or in respect of each unit of output the member has produced. For example, a flat benefit provision may provide a benefit of $20 per month ($240 per year) in respect of each year in which a member works a minimum of 1,300 hours. In this example, a member with 30 qualifying years of service at retirement would receive a pension of $7,200 per year.

A provision under which benefits are related to a plan member's level of earnings is not considered to be a flat benefit provision simply by virtue of the fact that it includes terms restricting the benefits to the defined benefit limit of $1,722.22 per year of service (indexed after 1994). On the other hand, a defined benefit provision does not fail to qualify as a flat benefit provision simply because it includes an earnings-based cap intended to ensure compliance with the maximum pension rule in subsection 8504(1).

"past service event"

A "past service event" is any transaction, event or circumstance that occurs after 1989 and that either results in retirement benefits becoming provided to an individual under a defined benefit provision of a pension plan in respect of a period before the transaction, event or circumstance occurs, or alters the method for determining an individual's past service benefits. It also includes a change in the value of an automatic indexing factor applicable in determining the amount of a defined benefit pension.

Generally, a past service event will be either an amendment to upgrade benefits under a plan or the crediting of an additional period of pensionable service. An example of the latter type of event is the provision of benefits to a member in respect of a period of service with a prior employer that was pensionable service under another pension plan.

It is important to note that "past service event" is broadly defined. Whenever there is a change in the way in which the past service benefits of a plan member are determined (whether or not a member's benefits are actually increased), a past service event has occurred. For example:

> (*a*) where a plan provides that additional benefits are provided to any member designated by an employer, the designation of a specific individual who has past service would be a past service event;
>
> (*b*) where a plan provides a benefit of $25 per month per year of service for terminations before 1992 and $28 per month for terminations thereafter, a past service event would be considered to occur on January 1, 1992 (the rule in paragraph 8300(6)(*a*) is relevant in this regard); and
>
> (*c*) where a plan provides benefits that are determined on a final average earnings basis with a benefit rate of 1.0 per cent if a member has less than 15 years of service and a rate of 1.3 per cent (for all years of service) if a member has 15 or more years of service, the

attainment of 15 years of service by a member would be a past service event.

As a result of the inclusion of changes in the value of indexing factors in the definition of a past service event, where benefits in pay are adjusted automatically each year under the terms of a defined benefit provision, a past service event would be considered to occur each year at the time of the adjustment.

Subsection 8300(6) contains several rules that are relevant in determining when benefits are considered to become provided under a defined benefit provision of a pension plan, and hence when a past service event is considered to occur. For further details, reference may be made to the commentary on that subsection.

By virtue of subsection 8308(1), all benefits that become provided under a pension plan before the day as of which the plan is registered are considered to have become provided as a consequence of a past service event occurring on that day. In this regard, subsections 147.1(2) and (3) of the Act provide rules regarding the time at which a plan becomes an RPP.

"period of reduced services"

A "period of reduced services" of an individual is a period that consists of one or more periods that are either periods of disability of the individual or eligible periods of reduced pay or temporary absence of the individual with respect to an employer. Periods of disability and eligible periods are defined in subsection 8500(1) of the Regulations. A period of disability is a period throughout which an individual is unable to perform the duties of the individual's job because of physical or mental impairment. In general terms eligible periods are periods when an individual's remuneration is less than normal -- for example because of an absence from work, reduced working hours or a temporarily reduced rate of pay. For further details, reference may be made to the commentary on the definitions of "eligible period of reduced pay" and "eligible period of temporary absence".

"refund benefit"

A "refund benefit" is a return of contributions made by an individual under a defined benefit or money purchase provision of an RPP or made by an individual to a DPSP. It also includes any (reasonably computed) interest payable in respect of the contributions.

ITR
8300(2)

Subsection 147.1(1) of the Act defines "past service event" to have the meaning assigned by regulation. Subsection 8300(2) provides that the definition of "past service event" in subsection 8300(1) applies for this purpose.

ITR
8300(3)

Subsection 8300(3) provides that the meanings given to terms in sections 147 and 147.1 of the Act and in Part LXXXV of the Regulations also apply for the purposes of Part LXXXIII of the Regulations.

ITR
8300(4)

Subsection 8300(4) is a special rule of interpretation which ensures that officers are treated in the same manner as employees for the purposes of determining PAs and PSPAs.

ITR
8300(5)

Subsection 8300(5) provides that an entitlement to benefits under an annuity contract, in lieu of benefits under a defined benefit provision of an RPP, is considered to be an entitlement to benefits under the defined benefit provision. The rule is relevant to the determination of whether the special rule in subsection 8301(8) for determining pension credits of terminating employees is applicable.

ITR
8300(6)

Subsection 8300(6) sets out four rules that apply in particular circumstances to determine when benefits are considered to become provided to an individual under a defined benefit provision of a pension plan. These rules are relevant, in particular, for the definition of "past service event" in subsection 8300(1) and for the prohibition in subsection 147.1(10) of the Act on the payment of past service benefits before a certification of the Minister of National Revenue has been obtained.

First, where a term of a defined benefit provision is not applicable before a specified date, the term is to be considered to be added to the provision on that date. Similarly, an amendment to a plan term, not applicable before a specified date, is to be considered to be made on the specified date. This rule ensures that where benefits are provided under such a term or amendment, they will not be considered to become provided before the specified date. For example, if a flat benefit plan provides a benefit of $25 per month per year of service for terminations before 1992 and $28 per month for terminations thereafter, the additional benefits resulting from the increase in the rate are considered to become provided on January 1, 1992.

Second, where an alteration to benefits is conditional on a certification by the Minister of National Revenue in respect of the benefits, the certification is assumed to have been issued. This rule ensures that a past service event may be considered to have occurred despite the fact that payment of benefits provided pursuant to the alteration is conditional upon such a certification.

Third, benefits that will be reinstated if an individual becomes re-employed by an employer who participates in a plan are not to be considered to be provided before the individual's return to employment. Thus, the reinstatement of benefits at the time of re-employment will be a past service event occurring at that time.

Fourth, where a plan provides that benefits change retroactively as a consequence of a change in an employee's job category or other circumstances, the benefits that are considered to be provided to an employee at any time are the benefits relevant to the employee's job category and other circumstances at that time. Thus, a change in job category or other relevant circumstances will constitute a past service event.

Subsection 8300(6) is subject to subsection 8308(1) which deems benefits provided before the effective date of registration of a plan to be considered to become provided on that date.

ITR
8300(7)

Several provisions in Part LXXXIII of the Regulations refer to the benefits to which an individual is entitled under pension plan or a deferred profit sharing plan. Subsection 8300(7) clarifies that an individual is considered to be entitled to benefits even though the individual's right to the benefits is contingent upon the satisfaction of the conditions for the vesting of the benefits. This rule ensures, in particular, that an individual who terminates from a plan before the vesting conditions are met is considered to have lost an entitlement to benefits rather than never having had such an entitlement. It also ensures that non-vested benefits under a defined benefit provision of an RPP are taken into account in calculating pension credits.

Pension Adjustment
ITR
8301

Section 8301 provides rules for calculating the PA of an individual for the purposes of the definition of "pension adjustment" in subsection 248(1) of the Act. Subsection 8301(1) defines the PA of an individual for a year in respect of an employer in terms of the individual's pension credits under DPSPs and under benefit provisions of RPPs. Subsections 8301(2) to (8) and (10) define the various pension credits of an individual, while the remaining subsections contain rules applicable for the purposes of those subsections. Further rules applying to special cases are found in sections 8304 and 8308.

Pension Adjustment in Respect of Employer
ITR
8301(1)

Subsection 8301(1) defines, for the purposes of subsection 248(1) of the Act, the "pension adjustment" (PA) of an individual for a calendar year in respect of an employer to be the aggregate of the individual's pension credits for the year in respect of the employer under DPSPs and under benefit provisions of RPPs.

A pension credit of an individual for a year under a DPSP or a benefit provision of an RPP is a measure of the benefits accruing to the individual under that DPSP or provision. It determines the extent to which the individual's RRSP deduction limit for the following year is reduced as a consequence of the accrual of benefits under the DPSP or the RPP benefit provision.

Section 8310 provides that pension credits are to be rounded to the nearest dollar.

The aggregation of pension credits to determine an individual's PA is illustrated in the following example.

Example 1: An individual is accruing benefits under a flat benefit pension plan with a benefit rate of $20 per month and in addition will receive benefits under a DPSP to which the individual's employer contributes. Assume that the individual's pension credit under the flat benefit provision is $1,160 and that a $1,000 DPSP contribution is made in the year on the individual's behalf. The individual's PA for the year is $2,160, calculated as follows:

PA = pension credit (RPP) + pension credit (DPSP)

= $1,160 + $1,000 = $2,160.

Pension Credit -- Deferred Profit Sharing Plan
ITR
8301(2)

Subsection 8301(2) defines the pension credit of an individual for a year in respect of an employer under a DPSP to be the aggregate of:

(*a*) all contributions made to the plan by the employer in the year in respect of the individual; and

(*b*) forfeited amounts under the plan, and investment earnings attributable to those amounts, that are reallocated in the year to the individual (and not paid out of the plan to the individual in the year).

For the purpose of this subsection, subsection 8301(11) provides that contributions made to a DPSP on or before the last day of February that relate to a preceding year are considered to have been made at the end of the immediately preceding year. Subsection 8301(15) provides that an amount is not considered to be paid out of a plan to an individual if it is transferred directly to an RPP, RRSP or DPSP.

This subsection is subject to subsection 8501(3) which provides a special rule for determining the pension credit of an individual for a year in which the individual terminates employment and, as a consequence, loses entitlement to DPSP benefits.

This subsection is also subject to subsection 8304(2) which provides a special rule for determining the pension credit of an individual for a year under a DPSP where the individual's entitlement to benefits under the

DPSP is replaced in the year by an entitlement to benefits under a defined benefit provision of an RPP.

For 1990, the pension credit excludes any amount allocated to the individual in the year that is attributable to amounts forfeited before 1990 or earnings thereon. However, the pension credit for 1990 includes both deductible and non-deductible employer contributions to a DPSP. (By virtue of amendments to section 147 of the Act, 1990 is the last year in which non-deductible DPSP contributions are permitted.)

Non-Vested Termination from DPSP
ITR
8301(3)

Subsection 8301(3) defines the pension credit of an individual in respect of an employer under a DPSP for a year in which the individual terminates employment with the employer to be nil where the following conditions are satisfied:

- the individual has lost all entitlement to benefits under the DPSP, with the possible exception of a refund benefit (a refund benefit is defined in subsection 8300(1) to be a refund of employee contributions plus interest),

- the individual has not subsequently acquired a right to benefits under the DPSP before the end of the year, and

- the only benefit, if any, that has been paid under the DPSP in respect of the individual is a refund benefit.

This rule provides an exception to the normal rule in subsection 8301(2) for determining DPSP pension credits.

Pension Credit -- Money Purchase Provision
ITR
8301(4)

Subsection 8301(4) defines the pension credit of an individual for a year in respect of an employer under a money purchase provision of a pension plan as the total of:

(*a*) all contributions made under the provision in the year

(i) by the individual, and

(ii) by the employer in respect of the individual; and

(*b*) forfeited amounts (and related investment earnings) and amounts of surplus under the provision that are allocated in the year to the individual (and not paid out of the plan to the individual in the year).

All contributions made in a year by an individual under a money purchase provision of an RPP, whether withheld from remuneration or contributed directly to the plan by the individual, are to be included in the individual's pension credit for the year under the provision. An exception is made for additional voluntary contributions (AVCs) made in 1990 and for excluded contributions (as defined in subsection 8300(1)). These contributions are not subject to PA reporting.

For the purpose of this subsection, subsection 8301(11) provides that contributions made under a money purchase provision of an RPP by a participating employer on or before the last day of February that relate to a preceding year are considered to have been made at the end of the immediately preceding year. Subsection 8301(15) provides that an amount is not considered to be paid out of a plan to an individual if it is transferred directly to an RPP, RRSP or DPSP.

As defined in subsection 8500(1), a surplus under a money purchase provision is an unallocated amount other than a forfeited amount or certain unallocated investment earnings. Such a surplus can arise when a defined benefit provision is converted to a money purchase provision or a defined benefit plan is wound up and replaced by a money purchase plan. Further rules relating to surpluses under money purchase provisions are described in the commentaries on subsection 147.3(8) of the Act and paragraph 8506(2)(*c*) of the Regulations.

This subsection is subject to subsection 8501(8) which provides a special rule for determining the pension credit of an individual for a year in which the individual terminates employment and, as a consequence, loses entitlement to RPP benefits.

This subsection is also subject to subsection 8304(2) which provides a special rule for determining the pension credit of an individual under a money purchase provision of an RPP for a year in which the individual's entitlement to benefits under that provision is replaced by an entitlement to benefits under a defined benefit provision of an RPP.

For 1990, the pension credit excludes any amount allocated to the individual in the year that is attributable to amounts forfeited before 1990 or earnings thereon.

Where an individual is employed in a year by two or more employers who participate under a money purchase provision, the plan administrator is required to determine the portion of the contributions made by, and the amounts allocated to, the individual that is to be included in the individual's pension credit in respect of each employer.

Pension Credit -- Defined Benefit Provision of a Specified Multi-Employer Plan
ITR
8301(5)

Subsection 8301(5) defines the pension credit of an individual for a year in respect of an employer under a defined benefit provision of an RPP that is, in the year, a specified multi-employer plan. The definition of a specified multi-employer plan is set out in subsections 8510(2) and (3). In general terms, a specified multi-employer plan is a defined benefit plan in which two or more unrelated employers participate pursuant to a collective bargaining agreement and that is administered by a board of trustees or similar body that is not controlled by representatives of the employers. For a plan to qualify as a specified multi-employer plan for 1991 and subsequent years, it must also be reasonable to expect that at least 15 employers will contribute to the plan or that at least 10 per cent of plan members will be employed by more than one participating employer in the year.

The pension credit for a year is the total of all contributions, except for excluded contributions as defined in subsection 8300(1), made under the provision in the year

(*a*) by the individual to obtain benefits in respect of current service, and

(*b*) by the employer in respect of the individual.

An employee contribution to obtain benefits in respect of current service includes a contribution made in the year in respect of a plan year that ends in the year but commences before the year. However, for 1990, an individual's pension credit does not include the portion of an employee contribution that is in respect of a period before 1990.

Contributions made by an individual to purchase benefits in respect of prior years of service are not included in determining the individual's pension credit. However, such contributions, to the extent that they are in respect of service after 1989, give rise to a PSPA and are thereby taken into account in determining the individual's available RRSP deduction room. For further discussion of this point, reference may be made to the commentary on subsection 8303(8). As an exception to the general rule, a contribution made by an individual in January of a year (after 1990) in respect of service in the immediately preceding year is included in the pension credit for the year in which the contribution is made; it is not reported as a PSPA or included in the pension credit for the preceding year.

Where an individual is employed in a year by two or more employers who participate under the provision, the plan administrator is expected to determine the portion of the contributions made by the individual that is to be included in the individual's pension credit in respect of each employer. In practice, such a determination will be necessary only where the existence of a supplementary pension or profit sharing arrangement of an employer gives rise to the need to determine a plan member's PA in respect of the employer for purposes of the PA limits in subsections 147(5.1) and 147.1(8) of the Act. Where an individual makes a contribution to a specified multi-employer plan (and the contribution is not remitted by a participating employer), subsection 8401(2) requires the administrator to report the aggregate amount of the pension credits arising from the contribution rather than the individual portions of pension credits in respect of different employers.

Where an employer contributes amounts that are not determined by some measure specific to individual plan members such as hours worked, paragraph 8301(5)(*c*) requires that such amounts be allocated to plan members in proportion to each member's share of the member-specific contributions made by the employer.

Where an employer or individual makes a contribution to an RPP indirectly through a union or employer association, subsection 8301(12) provides that the payment made to the union or employer association by the employer or individual is considered to be a contribution made to the plan. For further details regarding such contributions, reference may be made to the commentary on subsections 8301(12) to (14).

For the purpose of subsection 8301(5), subsection 8301(11) provides that contributions made under the defined benefit provision of a specified multi-employer plan that are made by a participating employer on or before the last day of February and that relate to a preceding year are considered to have been made at the end of the immediately preceding year. This rule does not apply, however, in the case of an indirect contribution described in the preceding paragraph.

Pension Credit -- Defined Benefit Provision
ITR
8301(6)

Subsection 8301(6) defines the pension credit of an individual for a year in respect of an employer under a defined benefit provision of an RPP (other than a specified multi-employer plan) to be the amount, if positive, that is equal to:

(9 x benefit entitlement) - $1,000 (or a portion thereof).

The individual's benefit entitlement under the provision is determined in accordance with the rules set out in section 8302. In general terms, it is the lifetime retirement benefits that accrue under the provision in respect of the year, to the extent that the benefits are attributable to the individual's employment with the employer.

In most situations, the full offset of $1,000 applies regardless of whether the individual is credited with a full year or a part year of service under the provision. However, in certain situations where an individual accrues benefits under two or more defined benefit provisions of plans of an employer or of non-arm's length employers, or under a single defined benefit provision in respect of two or more employers, the $1,000 offset must be split amongst the various pension credits.

> **Example 2**: An individual accrues benefits under a defined benefit plan to which all company employees belong. In addition, the individual accrues benefits under a second defined benefit plan provided only for certain employees. Under these circumstances, either the pension credit in respect of one of the plans should be calculated without reference to the $1,000 offset or the offset should be split in some other fashion between the two plans.

Subsection 8301(7) modifies subsection 8301(6) as it applies to benefits under multi-employer plans. Subsection 8301(6) is also subject to subsection 8301(8), which contains a special rule for determining the pension credit of an individual for a year in which the individual terminates employment and, as a consequence, loses entitlement to RPP benefits, and to sections 8304 and 8308 which contain rules that apply in a number of special circumstances.

Pension Credit -- Defined Benefit Provision of a Multi-Employer Plan

ITR
8301(7)

Subsection 8301(7) provides special rules for the calculation of the pension credits of an individual for a year under a defined benefit provision of a multi-employer plan that is not a specified multi-employer plan. The rules apply except to the extent that they are waived, in writing, by the Minister of National Revenue. There are four rules.

First, where an individual is employed by more than one participating employer in the year, the pension credit of the individual under the provision in respect of a particular employer is to be determined as if the individual were not employed by any other participating employer.

Second, the $1,000 offset provided by paragraph 8301(6)(*b*) is replaced by an offset of $1,000 prorated by the fraction equal to the services rendered by the individual to the employer in the year (or that the individual is treated as having rendered to the employer) expressed as a fraction of full-time equivalent services. The fraction may not exceed one and is to be determined without regard to the individual's employment with any other participating employer in the year.

Third, where the year includes a period of reduced services of the individual (as defined in subsection 8300(1)), the individual's pension credit for the year under the provision in respect of an employer is to be determined by aggregating:

- the pension credit computed without regard to benefits provided in respect of the period of reduced services, except to the extent that the benefits are attributable to services rendered during the period of reduced services, and

- the pension credit computed with regard only to benefits provided in respect of the period of reduced services, except for those benefits attributable to services rendered during the period of reduced services.

Fourth, the special transition rule in subsection 8301(10) for plans with money purchase offsets does not apply.

These rules permit an employer in a multi-employer plan to determine pension credits without regard to the earnings of plan members from other participating employers. Consequently, the need for employers and the plan administrator to exchange information is minimized.

Similarly, where additional benefits are provided in respect of a period of reduced services, the rules permit the portion of the individual's pension credits relating to such additional benefits to be determined independently of the portion of the individual's pension credits relating to benefits provided as a consequence of services rendered by the individual. Subsection 8401(4) permits, with the approval of the Minister of National Revenue, the pension credits attributable to these special periods to be reported by the plan administrator.

The application of these rules is illustrated in example 12 that follows the commentary on subsection 8302(11).

Non-Vested Termination from RPP
ITR
8301(8)

Subsection 8301(8) contains a special rule for determining the pension credit of an individual in respect of an employer under a money purchase or defined benefit provision of an RPP for a year in which the individual terminates employment with the employer. The rule applies only where the following conditions are satisfied:

- the individual has lost all entitlement to benefits under the benefit provision of the RPP, with the possible exception of a refund benefit (a refund benefit is defined in subsection 8300(1) to be a refund of employee contributions plus interest),

- the individual has not subsequently acquired a right to benefits under the provision before the end of the year, and

- the only benefit, if any, that has been paid under the provision in respect of the individual is a refund benefit.

Subsection 8301(9) provides that the rule does not apply with respect to multi-employer plans except in certain limited circumstances.

For a money purchase provision, the individual's pension credit for the year in respect of the employer under this special rule is the amount of the individual's contributions under the provision in the year (except to the extent that those contributions are included in determining the individual's pension credit in respect of any other employer). For this purpose, any additional voluntary contributions made in 1990 and any excluded contributions are disregarded. As defined in subsection 8300(1), excluded contributions are amounts transferred from other registered plans.

For a defined benefit provision, the individual's pension credit for the year in respect of the employer under this special rule is the lesser of:

- the individual's contributions under the provision in the year (except to the extent that those contributions are included in determining the individual's pension credit in respect of any other employer); and
- the pension credit that would otherwise be determined under the regular rules.

For this purpose, any contributions made to purchase past service benefits and any excluded contributions (as defined in subsection 8300(1)) are disregarded.

Multi-Employer Plans
ITR
8301(9)

Subsection 8301(9) provides that the special rule set out in subsection 8301(8) for determining pension credits in the year that an individual terminates employment does not apply in the case of a multi-employer plan except where:

- the plan is not a specified multi-employer plan;
- if the plan contains a defined benefit provision, application of the special multi-employer plan rule in paragraph 8301(7)(*b*) requiring the proration of the $1,000 offset in calculating pension credits has been waived; and
- written approval of the Minister has been obtained.

Transition Rule: Money Purchase Offsets
ITR
8301(10)

Subsection 8301(10) provides a special adjustment to the pension credit of an individual under a defined benefit provision of an RPP where benefits under the provision are offset by benefits that can be purchased at retirement from the individual's account under a money purchase provision and where certain other conditions are met. The adjustment applies for a transition period ending with 1999. The normal rule for determining the pension credit takes into account benefits under the money purchase provision arising from contributions made in the current year, but not benefits arising from earlier contributions. However, the money purchase account of a long-service member may be large enough that no benefits, or a minimal level of benefits, accrue under the defined benefit provision. In this case, the pension credit would be excessive relative to the actual defined benefits that accrue to the member. The transition rule adjusts the pension credit in these circumstances.

The transition rule will apply where:

- the amount of lifetime retirement benefits under a defined benefit provision of an RPP (other than a specified multi-employer plan) depends on the amount of lifetime retirement benefits under a money purchase provision of the plan or another plan;
- benefits have been so determined under the defined benefit provision since January 1, 1981 or earlier;
- the benefit formula under the defined benefit provision has not been substantially changed since the end of 1989; and
- employer contributions under the money purchase provision on behalf of each member have, for each year before 1990, not exceeded $3,500.

Where the above conditions are met, the pension credit of a member under the defined benefit provision for any year before 2000 is reduced by the lesser of:

(*a*) $2,500, and

(*b*) the amount determined by the formula

$$\frac{1}{10} \times (A - (B \times C))$$

where

A is the balance in the member's account under the money purchase provision at December 31, 1989,

B is the member's pensionable service under the defined benefit provision to the end of 1989, and

C is the amount that would be the member's pension credit under the defined benefit provision for 1989 if the pension credit for 1989 were not deemed, by subsection 8301(6), to be nil. (By virtue of the rules in section 8302 and the fact that subsection 8301(4) deems money purchase pension credits to be nil before 1990, the defined benefit pension credit is to be determined as if there were no money purchase offset. Also, no benefit accrual cap or earnings-related benefit exclusion applies in determining the pension credit since these are not defined for 1989.)

Timing of Contributions
ITR
8301(11)

For the purpose of determining pension credits, subsection 8301(11) provides a timing rule for employer contributions to DPSPs and RPPs. The rule applies to employer contributions made to DPSPs, under money purchase provisions of RPPs, and under defined benefit provisions of specified multi-employer plans. Under this rule, such contributions made on or before the last day of February that can reasonably be considered to relate to a preceding year are deemed to have been made in the immediately preceding year and, as a result, are included in the pension credits for the immediately preceding year.

Where contributions are made indirectly through a union or employer association, paragraph 8301(12)(*b*) provides that subsection 8301(11) does not apply.

Indirect Contributions
ITR
8301(12)

For the purposes of the determination and reporting of pension credits, paragraph 8301(12)(*a*) provides that where an employer makes contributions to an RPP indirectly through a union, a payment made at any time by the employer to the union to enable the union to contribute to the plan is considered to be a contribution made to the plan at that time by the employer. This rule also applies where an individual makes RPP contributions indirectly through a union, or where contributions are made through an employer association.

Certain contributions made by an employer to an RPP in the first two months of a calendar year are deemed, by subsection 8301(11), to have been made in the preceding calendar year. Paragraph 8301(12)(*b*) provides that this rule does not apply with respect to payments deemed by paragraph 8301(12)(*a*) to be contributions to an RPP.

Where an amount paid to a union or employer association by an employer or an individual is paid in part for pension purposes and in part for other purposes -- for example, where an employer makes combined payments for pension and welfare plan benefits to a union -- subsection 8301(12) applies only with respect to the portion of the payment made to enable the union or employer association to make contributions to the RPP.
Subsection 8301(13) requires the union or employer association to determine the portion of each payment that relates to the RPP and to provide notification of that portion.

Apportionment of Payments
ITR
8301(13)

In some circumstances, the amount paid by an employer or individual to a union or employer association is a multi-purpose payment, a portion of which is then paid by the union or employer association to an RPP. In these cases, subsection 8301(13) requires that the union or employer association:

(*a*) determine, in a manner that is reasonable, the portion of each such multi-purpose payment that is contributed by the union or employer association to the RPP;

(*b*) in the case of payments made by an employer, notify the employer of the portion of each such payment that is contributed to the RPP, with the notification to be provided by the end of January of the year following the year in which the payments are made; and

(*c*) in the case of payments made by an individual, notify the plan administrator of the total amount of payments made by the individual that relate to the plan, with the notification to be provided by the end of January of the year following the year in which the payments are made.

The apportionment of multi-purpose payments must be done in such a manner that all contributions made by the union or employer association to the RPP (other than contributions made by the union or employer association as an employer of members of the plan) are considered to derive from payments made by employers or individuals.

Where the requirements of this subsection are not met, the rules set out in subsection 8301(14) apply.

Non-Compliance by Contributing Entity
ITR
8301(14)

Where a contributing entity (union or employer association) does not comply with the requirements of subsection 8301(13) in respect of payments made to the contributing entity in a calendar year to enable the entity to make contributions to an RPP:

- the RPP becomes revocable on February 1 of the immediately following calendar year, and
- the required determinations will be made by the Minister of National Revenue.

Transferred Amounts
ITR
8301(15)

Paragraphs 8301(2)(*b*) and (4)(*b*) provide that certain amounts allocated to an individual under a DPSP or under a money purchase provision of an RPP are included in the individual's pension credit. However, subparagraphs 8301(2)(*b*)(ii) and (4)(*b*)(iv) exclude amounts paid to the individual in the year in which they are so allocated. Subsection 8301(15) provides a special rule for this purpose: an amount is not considered to be paid to an individual if it is transferred from the plan directly to an RPP, an RRSP or a DPSP. Consequently, such amounts are included in an individual's pension credit.

Subsequent Events
ITR
8301(16)

Subsection 8301(16) provides that the pension credits of an individual for a year are to be calculated without regard for anything that happens after the end of the year (unless otherwise expressly provided). As a consequence, pension credits, and thus PAs, are fixed amounts each year and are not affected by past service events. Exceptions to this rule are set out in subsections 8308(4) and (5), which provide for the redetermination of PA where retroactive benefits are credited under a defined benefit provision or retroactive contributions are made under a money purchase provision in respect of a period of reduced pay, temporary absence or disability.

Benefit Entitlement
ITR
8302

Section 8302 provides the principal rules for the calculation of the benefit entitlement of an individual under a defined benefit provision of an RPP. The benefit entitlement is used in subsection 8301(6) to calculate the individual's pension credit under the provision. The rules include transitional provisions applicable in the years 1990 to 1993. In any case where the rules are incomplete or the application of the rules would give an inappropriate result, section 8309 enables the Minister of National Revenue to permit or require the use of a particular method of calculation.

Benefit Entitlement with Respect to Employer
ITR
8302(1)

Subsection 8302(1) defines an individual's benefit entitlement under a defined benefit provision of an RPP in respect of a year and an employer to be the portion of the individual's benefit accrual in respect of the year that is attributable to the individual's employment with the employer. The benefit accrual of an individual is defined in subsection 8302(2).
Section 8305 contains rules relating to the association of benefits with employers. The full amount of an individual's benefit accrual must be associated with one or more employers. In the vast majority of cases, an

individual will accrue benefits under a provision in a year as a consequence of employment with only one employer. In these cases, the individual's benefit entitlement and benefit accrual are the same amount.
Subsection 8308(7) contains a special rule that applies with respect to the association of an individual's benefit accrual with employers where the individual is on loan from one employer to another.

Benefit Accrual for Year
ITR
8302(2)

Subsection 8302(2) sets out rules for determining an individual's benefit accrual under a defined benefit provision of an RPP in respect of a calendar year for the purpose of subsection 8302(1). The rules are subject to rules for certain special cases in subsections 8302(6), (8) and (9).

In general terms, the benefit accrual of an individual under a defined benefit provision of an RPP in respect of a calendar year is the additional benefit that accrues under the provision to the individual in respect of his or her service in the year. It does not include additional accruals in respect of prior years where, for example, past benefits increase as a result of an increase in earnings. More specifically, the benefit accrual of an individual for a year is equal to the amount computed as follows:

> (*a*) determine the portion of the individual's normalized pension under the provision at the end of the year that can reasonably be considered to have accrued in respect of the year;
>
> (*b*) where the year is one of the years 1990 to 1993, determine the lesser of the above amount and the following benefit accrual ceilings

Year	Benefit Accrual Ceiling
	(dollars)
1990	1,277.78
1991	1,388.89
1992	1,500.00
1993	1,611.11

> (*c*) where benefits under the provision are offset by benefits payable under a DPSP or a money purchase provision of an RPP, reduce the amount determined under (*a*) or (*b*) by 1/9th of the individual's pension credit for the year under the DPSP or money purchase provision.

The normalized pension of an individual under a defined benefit provision is defined in subsection 8302(3) and, in general terms, is the amount of lifetime retirement benefits determined on the basis of a number of assumptions. The individual's benefit accrual for a year (subject to the ceilings and money purchase offsets) is the portion of the normalized pension that can reasonably be considered to have accrued in respect of the year. Generally, this can be determined by taking the difference between the current year's normalized pension and the normalized pension computed on the basis of service to the end of the preceding year but using the current year's level of remuneration (and, where applicable, the current year's YMPE). In the great majority of cases where benefits are determined as a percentage of earnings, the benefit accrual will simply be the product of the benefit rate or rates under the provision and the individual's pensionable earnings in the year. These points are illustrated in examples 3 and 8 that follow the commentary on subsection 8302(11).

If an individual who accrues benefits in a year retires or terminates with a deferred vested pension in the year, the individual's benefit accrual in respect of the year is to be determined using the individual's normalized pension, not the actual pension payable.

The effect of the benefit accrual ceiling in paragraph 8302(2)(*b*) is to ensure that at least $1,000 of deduction room is available for supplementary money purchase contributions to an RRSP, RPP or DPSP by or on behalf of each defined benefit plan member.

The adjustment in paragraph 8302(2)(*c*) applies where retirement benefits under the defined benefit provision are offset by benefits payable under a DPSP or under a money purchase provision of the same plan or another plan. An example is a plan that provides for employer and employee money purchase contributions and also includes a guarantee of a certain level of retirement benefits. By virtue of paragraph 8302(3)(*l*), the money purchase offset is not taken into account in determining the normalized pension under the defined benefit provision. Instead, it enters into the calculation of the benefit accrual by virtue of paragraph 8302(2)(*c*). Example 10 illustrates the application of paragraph 8302(2)(*c*).

Normalized Pension
ITR
8302(3)

Subsection 8302(3) contains rules for determining, for the purpose of paragraph 8302(2)(*a*), the normalized pension of an individual under a defined benefit provision of an RPP at the end of a particular calendar year.

In general terms, the normalized pension is the amount of lifetime retirement benefits determined at the end of the year on the basis of a number of assumptions. For plans other than flat benefit plans, the key assumption is that the individual's remuneration (expressed on a full-time basis) in other years is identical to that in the current year.

Specifically, the normalized pension of an individual under a defined benefit provision of an RPP at the end of a calendar year is the annual amount of lifetime retirement benefits that would be payable under the provision to the individual immediately after the end of the year if:

> (*a*) where lifetime retirement benefits have not commenced to be paid to the individual under the provision, they commenced to be paid immediately after the end of the year;
>
> (*b*) where the individual had not attained age 65 before the time of pension commencement (or deemed commencement under paragraph (*a*)), the individual attained age 65 at that time;

(*c*) all benefits to which the individual is entitled under the provision were fully vested;

(*d*) the individual's retirement benefits were not subject to any reduction on account of early retirement;

(*e*) the individual's remuneration in other years were identical to the individual's remuneration in the year, or, if the individual was not remunerated on a full-time basis in the year or another year, the individual's rate of remuneration were the same in other years as in the year;

(*f*) where all or part of the individual's remuneration in the year is treated under the provision as if it were received in a preceding year for services rendered in that preceding year, such remuneration were instead received for services rendered in the year;

(*g*) where the year is one of the years 1990 to 1993, benefits in respect of the following range of annual remuneration were excluded:

Year	Range of Remuneration
	(dollars)
1990	63,889 - 86,111
1991	69,444 - 86,111
1992	75,000 - 86,111
1993	80,556 - 86,111

(*h*) where the formula for determining the individual's lifetime retirement benefits includes an adjustment to remuneration to reflect, in whole or in part, the increase in average wages and salaries from the year the remuneration was paid to the year benefits are determined, the formula did not include that adjustment;

(*i*) the Year's Maximum Pensionable Earnings (YMPE) were the same in other years as in the year;

(*j*) where the individual's lifetime retirement benefits depend on the actual amount of benefits payable under the Canada Pension Plan (CPP) or Quebec Pension Plan (QPP), the annual amount of CPP/QPP benefits payable to the individual were equal to

(i) 25 per cent of the YMPE for the year or, if less, 25 per cent of the individual's remuneration for the year from participating employers (or, in the case of an individual who does not work on a full-time basis throughout the year, a reasonable estimate of the remuneration the individual would have received had he or she worked on a full-time basis throughout the year), or

(ii) at the option of the plan administrator, an amount similar to that in (i), determined in a reasonable manner;

(*k*) where the individual's lifetime retirement benefits depend on the level of benefits payable under the Old Age Security (OAS) program, the individual's annual OAS benefits were equal to the total of the maximum OAS benefits payable for each month in the year;

(*l*) where the individual's lifetime retirement benefits depend on the level of benefits (other than public pension benefits of Canada or another country) payable under another benefit provision of a pension plan or under a DPSP, the level of the other benefits were such as to maximize the individual's lifetime retirement benefits;

(*m*) where the individual's lifetime retirement benefits would otherwise include benefits determined in accordance with a designated provision of the law of Canada or a province (as defined in section 8513), such benefits were not included;

(*n*) where the individual's lifetime retirement benefits would otherwise be subject to an adjustment (not more favourable than an actuarial adjustment) to reflect their postponement from age 65 to a later age, no such adjustment were made;

(*o*) except as otherwise provided by subsection 8302(4), where the level of the individual's lifetime retirement benefits depends on the level of survivor benefits or other ancillary benefits provided under the provision, or on circumstances (such as marital status) relevant in determining the form of the individual's benefits, the level of the ancillary benefits and the circumstances were such as to maximize the amount of lifetime retirement benefits;

(*p*) where the level of lifetime retirement benefits depends on whether the individual is totally and permanently disabled at the time of pension commencement, the individual were not so disabled; and

(*q*) where retirement benefits have commenced to be paid before the end of the year, any benefits payable as cost-of-living adjustments (as described in paragraph 8303(5)(*k*)) were excluded.

The assumption in paragraph 8302(3)(*a*) fixes the time of pension commencement where the pension has not commenced to be paid before the end of the year for which the normalized pension is being calculated.

The assumption in paragraph (*b*) ensures that any increase in benefits associated with an increased age of retirement (up to age 65) is taken into account.

Assumption (*c*) makes it clear that the normalized pension includes benefits whether or not they are vested.

Assumption (*d*) ensures that the normalized pension and benefit accrual will not be reduced on account of early retirement. Given the assumption as to age in paragraph 8302(3)(*b*) and the fact that very few plans apply a reduction to pensions commencing at age 65, assumption (*d*) will generally not have any effect.

Assumption (*e*) is relevant where benefits depend on an average of earnings over a period of years. It provides, in effect, that the average of pensionable earnings for the period is equal to the amount of pensionable earnings in the particular year for which the normalized pension is being determined. Thus, it permits the normalized pension (and the PA of an individual) to be determined on the basis of the individual's pensionable earnings (or annualized pensionable earnings) in the year although pension benefits will actually be determined on the basis of average earnings. If a portion of earnings is not pensionable (for example, a bonus), this would be taken into account in applying the assumption.

Where an individual does not work on a full-time, full-year basis in the particular year or in another year, assumption (*e*) requires that the earnings in the prior year be recalculated based on the annual rate of pay in the particular year. For example, if an individual who works on a full-time basis earned $40,000 for a full-year's employment in a prior year but earned $22,000 for half a year's employment in the particular year, the recalculated earnings for the prior year under assumption (*e*) would be $44,000. As another example, if an individual who works on a full-time basis earned $44,000 for a full year's employment in the particular year but earned $20,000 for half a year's employment in a prior year, the recalculated earnings for the prior year under assumption (*e*) would be $22,000. In a case where an individual renders no services in the particular year, because of disability or temporary absence, the prior year's remuneration would be recalculated based on a reasonable estimate of the annual rate of remuneration that would have been paid in the particular year had the individual rendered services. In cases involving less than full-time, full-year service, paragraph 8302(3)(*e*) permits the use of a reasonable estimate of remuneration in other years where the estimate is determined in a manner acceptable to the Minister of National Revenue.

Assumption (*f*) generally applies where back-pay or bonuses paid in a year are treated under an RPP as if they had been paid in a preceding year. It requires that a bonus paid in 1990, for example, be reflected in the normalized pension for 1990 even if the bonus is treated under the plan as earnings for 1989. Similarly, a bonus earned in 1990 but not paid until 1991 would be reflected in the 1991 normalized pension.
Subsection 8308(3) provides special rules that ensure that back-pay or a bonus paid to an individual in a year in which he or she accrues no further retirement benefits under a defined benefit provision will result in a pension credit.

Assumption (*g*) provides an adjustment to be made in the calculation of normalized pensions for the transition years 1990 to 1993. The purpose of the adjustment is to ensure that pension credits under defined benefit provisions bear an appropriate relationship to the money purchase limits that apply in the transition years. If it were not for this adjustment, a number of existing pension arrangements would give rise to PAs during the phase-in period that violate the limits in subsection 147.1(8) of the Act even though the PAs would be within the limits in 1994. Example 6 provides an illustration of the benefit exclusion. The exclusion depends on annualized earnings. Thus, this rule will apply where, for example, a part-time or part-year employee has actual 1990 earnings below the threshold of $63,889 but annualized earnings in excess of that amount. An anti-avoidance rule in subsection 8302(11) precludes the application of this paragraph in certain circumstances.

Assumption (*h*) provides that where a benefit formula includes an adjustment made to earnings to partly or fully reflect the increase in average wages and salaries between the year of earnings and the year in which benefits are determined, the adjustment is to be ignored. Since assumption (*e*) requires the use of an individual's current earnings level in calculating the individual's normalized pension, it would be inappropriate to also include the adjustment in the calculation. Assumption (*h*) is relevant, in particular, where earnings are indexed for purposes of the cap on benefits required by subsection 8504(1).

Where benefits depend on the YMPE for a year other than the current year (for example, where the integration of benefits with CPP or QPP benefits is based on a three-year average of YMPEs), assumption (i) provides that the current year's YMPE is to be used for the purpose of computing the normalized pension.

Assumption (*j*) applies only in certain cases where benefits are reduced by the actual amount of CPP or QPP benefits payable to the individual. The assumption does not apply where pension benefits are indirectly integrated with CPP/QPP benefits, through the use of a lower benefit rate on earnings up to the YMPE, for example, or where the plan defines a CPP/QPP offset based on an approximation to CPP/QPP benefits.

The terms of a plan that relate a CPP/QPP offset to years of service under the plan should be followed in applying assumption (*j*). For instance, if a plan provides that retirement benefits are offset by 1/20th of actual CPP/QPP benefits for each year of service up to 20 years, 19/20th of the amount determined in accordance with assumption (*j*) would be deducted in calculating the normalized pension for an individual's 19th year of service (assuming that service years and calendar years coincide). Since the individual's benefit accrual for the 19th year of service is generally determined as the difference between the individual's normalized pension as of the end of the 19th and 18th years (based on 19th year remuneration and YMPE levels), the impact of the CPP/QPP offset on the benefit accrual for the 19th year would be 1/20th (= 19/20 - 18/20) of CPP/QPP benefits. The benefit accruals determined for the individual's 21st and subsequent years of service would not reflect any offset for CPP/QPP benefits.

Assumption (*j*) permits the use of an alternate method of determining CPP/QPP benefits as long as the method is reasonable and produces results substantially similar to those produced by the method set out in the assumption. For example, where retirement benefits are offset by 1/35th of actual CPP/QPP benefits for each of the first 35 years of service, the offset could be calculated as 0.007 times the YMPE (or 0.007 times the individual's annualized remuneration where this amount is less than the YMPE). Example 9 illustrates the application of this paragraph.

Assumption (*k*) applies where retirement benefits depend directly on the level of OAS benefits, but does not apply where OAS benefits are taken into account indirectly through a step-rate benefit formula. If OAS benefits in a year are $4,130, for example, and retirement benefits are to be reduced by 1/35th of OAS benefits per year of service (to a maximum of 35 years), then for an individual with 10 years of service who accrues a full year of service in the year, the offset taken into account in computing the individual's normalized pension would be 10/35th of $4,130. The effect of the OAS offset on the benefit accrual for an individual with no more than 35 years of service would be 1/35 of $4,130 or $118.

Assumption (*l*) provides that, where an individual's retirement benefits under a particular provision depend on benefits under another provision of a pension plan or under a DPSP, the other benefits are assumed to be such that the individual's benefits under the particular provision are maximized. Normally, this means that the other benefits are assumed to be nil. Where benefits under the particular provision are offset by benefits under a money purchase provision or under a DPSP, the offset is taken into account pursuant to special rules in paragraph 8302(2)(*c*). Defined benefit offsets are taken into account according to rules set out in subsection 8302(6). Paragraph 8302(3)(*l*) permits the Minister of National Revenue to modify the way in which the paragraph applies. For example, where money purchase benefits are not simply deducted in determining defined benefits but enter into the formula in a more complex way, and therefore the rule in paragraph 8302(2)(*c*) does not apply, the Minister may permit the money purchase benefits to be taken into account in an appropriate way for the purpose of determining the normalized pension.

Assumption (*m*) permits lifetime retirement benefits to be ignored in computing an individual's normalized pension to the extent that they are provided by reason of a "designated provision of a law of Canada or a province". Section 8513 provides that subsection 21(2) of the *Pension Benefits Standards Act, 1985* (PBSA) and any similar provision of the law of a province are designated provisions. Subsection 21(2) of the PBSA provides that on retirement, termination or death, a plan member's pension under a defined benefit plan must be increased by a certain amount where, for years after 1986, the member's contributions plus interest are greater than half of the value of the pension that would otherwise be paid. Assumption (*m*) also applies with respect to benefits that a plan is not required to provide but would be required to provide if the designated provisions were applicable to the plan in respect of all its members. For example, if a plan that has members in both British Columbia and Ontario applies the cost-sharing rule required by Ontario to its British Columbia members, any additional benefits arising by virtue of this rule will be ignored in determining the normalized pension of both British Columbia and Ontario members.

Assumption (*n*) permits a pension commencing after a plan member attains age 65 to be increased to reflect its delayed commencement without affecting the member's normalized pension. However, the paragraph excludes such benefit increases only to the extent that they do not exceed increases that would be made on an actuarially equivalent basis. To the extent that an increase exceeds this amount, the member's normalized pension, and hence the portion of that pension attributable to the year for which the member's pension credit is being calculated, will be correspondingly larger. (In addition, the adjustment to prior years' benefits will be a past service event and will give rise to a PSPA if the increase is greater than an actuarial increase.)

Assumption (*o*) requires that, regardless of the normal and alternative forms of benefits specified in the plan and the benefit option actually chosen by a plan member, the normalized pension be determined using the highest level of lifetime retirement benefits that might be payable to a member. For example, where a lower pension is paid to members with spouses (at the time of pension commencement) than to those without spouses, the normalized pension for all members must generally be based on the level of retirement benefits payable to members without spouses. Assumption (*o*) applies, in particular, where the level of lifetime retirement benefits depends on the level of survivor benefits, bridging benefits, inflation adjustments or benefit guarantees. However, exceptions to this rule that apply for certain survivor benefits and guarantee periods are set out in subsection 8302(4). For further details, see the commentary on that subsection.

Two examples will illustrate the general rule. First, consider a plan which provides a benefit of 2 per cent per year of service but applies a reduction of 10 per cent of the pension for married plan members who opt at retirement for a pension with a 60 per cent survivor benefit. In this case, the normalized pensions of all members must be determined without the 10-per-cent reduction. Second, consider a plan that provides a 1.5-per-cent benefit accrual and includes a 60-per-cent survivor benefit in its normal form. Plan members are permitted to opt at retirement for an actuarially increased pension in exchange for giving up the survivor benefit. Assumption (*o*) requires that the normalized pension of any plan member to whom the option is available be based on the actuarially increased pension. For this purpose, it is not necessary to calculate the precise amount of the actuarial increase; a reasonable estimate may be made. For example, a uniform percentage increase could be applied to all pensions.

Assumption (*p*) provides that any adjustment to retirement benefits that applies because a plan member is totally and permanently disabled at the time of pension commencement be disregarded in computing normalized pensions. For example, any reduction in benefits under the pension plan to reflect disability benefits provided under another plan would be disregarded. Since most disability benefits cease by age 65 (as is the case for CPP disability benefits, for instance), the assumption in paragraph 8302(3)(*b*) that the individual has attained age 65 means that assumption (*p*) will generally not have any effect.

Assumption (*q*) provides that inflation adjustments to a pension already in pay by the end of the year be ignored in computing the normalized pension of the recipient.

Optional Forms
ITR
8302(4)

Paragraph 8302(3)(*o*) provides that, where the amount of a member's lifetime retirement benefits depends on the form in which the member's benefits are payable, the member's normalized pension must be determined using the highest level of lifetime retirement benefits that might be payable. Subsection 8302(4) contains two exceptions to this rule.

First, where a member may elect to receive additional lifetime retirement benefits in lieu of all or a part of a guarantee period of ten years or less, the additional benefits are to be excluded in determining the member's normalized pension.

Second, additional lifetime retirement benefits are to be ignored where:

- the additional benefits may be elected in lieu of survivor benefits,
- the election is available only if the life expectancy of the plan member's spouse or former spouse is significantly shorter than normal, and
- the value of the additional benefits does not exceed the value of the survivor benefits being waived (determined as if the spouse were in normal health).

Termination of Entitlement to Benefits
ITR
8302(5)

Subsection 8302(5) provides that where an individual ceases in a year to be entitled to some or all of the benefits accrued to the individual under a defined benefit provision of an RPP, the normalized pension of the individual at the end of the year is to be determined as if the individual continued to be entitled to the benefits immediately after the end of the year. Consequently, the individual's pension credit for the year is calculated as if the individual had continued to be entitled to those benefits. However, where a terminating employee is not entitled to any benefits, or is entitled only to a refund benefit (refund of employee contributions plus interest), subsection 8301(8) contains a special rule for determining the individual's pension credit for the year. In general, that rule will give a lower pension credit than the amount calculated in the regular manner using the normalized pension. Furthermore, although subsection 8302(5) applies where an individual dies in a year, it is not necessary to calculate and report a PA for that year, by virtue of subsection 8401(5).

Defined Benefit Offset
ITR
8302(6)

Subsection 8302(6) provides a rule for determining the benefit accrual of an individual under a particular defined benefit provision of an RPP where benefits under the provision depend on benefits provided under one or more other defined benefit provisions of RPPs. In general terms, the benefit accrual is equal to the additional benefits provided under the particular provision. More precisely, the benefit accrual of the individual under the particular provision is the amount, if any, by which

> (*a*) the benefit accrual of the individual under the provision, determined as if the other provisions were part of the particular provision,

exceeds

> (*b*) the benefit accrual of the individual under the other provisions, determined as if they were a single provision.

The benefit accruals referred to in paragraphs (*a*) and (*b*) are determined by applying subsection 8302(2). This rule would apply, for example, where the defined benefits provided to an individual under a multi-employer plan (plan A) in which an employer participates are deducted in determining the individual's retirement benefits under a defined benefit provision of a single-employer plan (plan B) in which the employer participates. In such a case, paragraph 8302(6) specifies that the benefit accrual under the defined benefit provision of plan B be determined by subtracting the individual's benefit accrual under plan A from a benefit accrual determined in respect of the total defined benefit provided to the individual under plans A and B. Example 11 illustrates the calculation of PA in a case where retirement benefits are provided under two, inter-dependent defined benefit provisions in separate RPPs.

Offset of Specified Multi-Employer Plan Benefits
ITR
8302(7)

Subsection 8302(7) applies where retirement benefits provided under a defined benefit provision of an RPP depend on (or "supplement") the amount of retirement benefits provided under a defined benefit provision of a specified multi-employer plan. It provides that the defined benefit provision of the specified multi-employer plan shall be deemed to be a money purchase provision for the purpose of determining benefit accruals under the supplemental plan. This rule reflects the fact that pension credits under a defined benefit provision of a specified multi-employer plan are determined on a money purchase basis.

Transition Rule: Career Average Benefits
ITR
8302(8)

Subsection 8302(8) contains a transition rule applicable prior to 1992. It provides that in certain cases where retirement benefits under a defined benefit provision are the greater of benefits determined under a career average formula and those determined under a final or best average earnings formula, the benefits under the career average formula may be disregarded in calculating benefit accruals. This transition rule applies, at the option of the plan administrator, for 1990 and 1991, and only where:

- the defined benefit provision existed on March 27, 1988 and has not been amended since then, and

- it is reasonable to expect (on January 1, 1990) that the final or best average earnings formula will provide greater benefits than the career average formula for at least 75 per cent of the active members of the plan.

Transition Rule: Benefit Rate Greater Than 2 Per Cent
ITR
8302(9)

For years before 1994, paragraph 8302(2)(*b*) places dollar limits on benefit accruals calculated for the purpose of determining pension credits under a defined benefit provision of an RPP. These limits are intended to ensure that members of defined benefit plans have at least $1,000 of deduction room for RRSP or other money purchase contributions.

Subsection 8302(9) contains another rule for this purpose. The rule applies where benefits under a defined benefit plan are a function of remuneration, and the highest benefit accrual rate exceeds 2 per cent. Without this rule, the benefit accruals of some plan members could exceed 2 per cent of their earnings, and so such members would have less than $1,000 of RRSP room. Since all RPPs will be required to limit lifetime retirement benefits to 2 per cent of compensation after 1991, the transition rule applies only for 1990 and 1991.

Subsection 8302(9) limits benefit accruals, for the purposes of pension credit calculations, to 2 per cent of a plan member's compensation. For this purpose, compensation is as defined in subsection 147.1(1) of the Act but without reference to subparagraphs (*a*)(iii) and (*a*)(iv) (exclusion of income exempt from Canadian tax), paragraph (*b*) (prescribed amounts of compensation) and paragraph (*c*) (inclusion of certain amounts received while not resident in Canada). As a general rule, the amount of an individual's compensation will be the individual's T4 earnings whether or not benefits under the plan are based on the full amount of earnings. However, subsection 8302(10) provides for a deemed level of compensation in situations where remuneration is reduced by reason of disability, leave of absence, lay-off or other circumstances.

Period of Reduced Remuneration
ITR
8302(10)

Subsection 8302(10) contains a rule that modifies, in certain circumstances, the determination of compensation for the purposes of paragraph 8302(9)(*d*). The rule applies where an individual who accrues benefits under a defined benefit provision of an RPP in respect of a period in 1990 or 1991 receives no remuneration or a reduced rate of remuneration for the period by reason of disability, leave of absence, lay-off or other circumstances. The plan member's compensation for the period is to be calculated as if the member had received an amount of remuneration that it is reasonable to consider the member would have received had he or she rendered services throughout the period on a regular basis at his or her normal rate of remuneration.

Anti-Avoidance
ITR
8302(11)

Paragraph 8302(3)(*g*) provides that, for transitional years 1990 to 1993, benefits in respect of certain ranges of annual remuneration are excluded in determining normalized pensions, and hence pension credits, under defined benefit provisions of RPPs. Subsection 8302(11) provides that paragraph 8302(3)(*g*) does not apply where the terms of a provision can reasonably be considered to have been established or modified in order to have that paragraph apply to reduce the pension credit of an individual. For example, amending a plan to increase a benefit rate which applies only on earnings above $60,000 could result in the application of this provision.

Examples

The rules in section 8302 for determining benefit accruals are illustrated in the following examples. In some cases, the calculation of PA is also illustrated.

As a general rule, the benefit accrual of an individual under a defined benefit provision for a calendar year is the portion of the individual's normalized pension under the provision at the end of the year that can reasonably be considered to have accrued in respect of the year. This portion can usually be determined as the difference between the normalized pension at the end of the year and the normalized pension at the start of the year where both normalized pensions are based on the individual's pensionable remuneration in the year and, where applicable, the current year's YMPE.

As illustrated in Example 3, this will generally produce a benefit accrual that is simply equal to the benefit rate or rates under the provision multiplied by the individual's pensionable earnings in the year. Accordingly, in most of the examples which follow, the benefit accrual is computed directly from the benefit formula and the individual's pensionable earnings; the step of computing the normalized pension is omitted.

> **Example 3**: Under the terms of a defined benefit provision, retirement benefits are 1.5 per cent of the average of the best five years of pensionable earnings per year of service. An individual's pensionable earnings are $30,000 in the year (for a full year of service under the plan) but were lower in prior years. As of the end of the year, the individual has 7.5 years of service under the provision.
>
> Result: In accordance with the assumption in paragraph 8302(3)(*e*), the individual's best average earnings are $30,000 for the purpose of computing the normalized pension. Thus the normalized pension at the end of the year is:
>
> 7.5 x .015 x $30,000 = $3,375.
>
> To determine the portion of this normalized pension that is in respect of the year, the normalized pension at the start of the year (based on the same earnings) is subtracted. It is:
>
> 6.5 x .015 x $30,000 = $2,925.
>
> The difference, $450, is the benefit accrual in respect of the year and is more simply computed as 1.5 per cent of $30,000.

The next example illustrates the common case of a step-rate plan where benefits are integrated with CPP/QPP benefits.

> **Example 4**: Benefits in respect of each year are 0.8 per cent of the best five years of pensionable earnings up to a three-year average of the YMPE and 1.5 per cent of best average earnings above the average YMPE. An individual's pensionable earnings in the year are $35,000 and the YMPE in the year is $30,500.
>
> Result: The individual's benefit accrual is $311.50, calculated as follows:
>
> (.008 x $30,500) + (.015 x $4,500) = $311.50.

The most common variation from the above examples will occur where employees with part-time employment or a part year of plan membership are credited with a part year of service under the plan at an annualized level of earnings. Example 5 illustrates the determination of benefit accruals for such a case.

> **Example 5**: Retirement benefits under an RPP for each year of credited service are 1.3 per cent of final average earnings up to the YMPE and 2.0 per cent of earnings above the YMPE. The YMPE is $30,500. In the case of a plan member who works on a part-time basis or who works for only a portion of a year, actual earnings are annualized under the terms of the plan for the purpose of applying the benefit formula, and credited service is determined as the fraction of full-time services rendered. Assume that an individual who belongs to the plan is paid a salary at an annual rate of $40,000 but earns $20,000 in a particular year because he or she works for only six months of the year. The individual's benefit accrual under the RPP is $293.25, determined as follows:
>
> $$((.013 \times \$30{,}500) + (.02 \times \$9{,}500)) \times 1/2 = \$293.25.$$

The application of the earnings-related benefit exclusion for transition years 1990 to 1993 is illustrated in the next example.

> **Example 6**: Under an RPP, benefits per year of service are 1.5 per cent of earnings in the year. For an individual whose earnings are $100,000, the benefit accrual in 1991 is $1,250.00, calculated as follows:
>
> $$(.015 \times \$100{,}000) - (.015 \times (\$86{,}111 - \$69{,}444)) = \$1{,}250.00.$$
>
> As noted earlier, the earnings-related benefit exclusion applies on the basis of annual earnings. Thus, it can apply in the case of a part-time or part-year plan member whose actual earnings in 1991 are less than $69,444 but whose annualized earnings exceed that amount.

The following two examples illustrate situations where the benefit accrual is affected by career limits on pensionable service or retirement benefits.

> **Example 7**: Benefits are 2 per cent of the average of the final five years of earnings for each year of service to a maximum of 35 years. An individual earns $55,000 in his or her 36th year of service (which coincides with the calendar year), an increase from $52,500 in the preceding year.
>
> Result: The individual's benefit accrual under this provision is zero because there is no pensionable service in the year. (Where there is no pensionable service in a year, the individual's normalized pension at the

end of the year is no greater than at the start of the year.) An increase in retirement benefits in respect of prior years of service arising as a result of an increase in average earnings does not affect the benefit accrual.

If, instead, the individual had attained 35 years of service at the end of September, the benefit accrual would have been $825, calculated as follows:

.02 x $55,000 x 9/12 = $825.00.

Example 8: Benefits are 1.3 per cent of average earnings up to the YMPE and 2 per cent of average earnings above the YMPE for each year of service, where the average is an average of the best five years of earnings. However, benefits are also subject to a "career limit" of the lesser of 2 per cent of the average of the best three years of earnings per year of service (to a maximum of 35 years) and $1,715 per year of service (maximum $60,025). An individual's earnings are $56,000 in his or her 38th year of service (which coincides with a calendar year), and the year's YMPE is $30,500.

Result: The individual's normalized pension at the end of the year is $34,447, determined as the least of:

(*a*) 38 x ((.013 x $30,500) + (.02 x $25,500)) = $34,447;

(*b*) 35 x .02 x $56,000 = $39,200;

(*c*) 35 x $1,715 = $60,025.

The individual's normalized pension at the start of the year, similarly determined except for the length of service in (*a*), is $33,540.50. The individual's benefit accrual is the difference between these normalized pensions, which is $906.50. Because neither of the career limits applies, this can be more simply computed as the product of the benefit rates and the relevant ranges of pensionable earnings in the year as follows:

(.013 x $30,500) + (.02 x $25,500) = $906.50.

However, if the career limit in (*b*) were replaced by a limit of 2 per cent of best average earnings per year of service to a maximum of 30 years of service, then that limit would enter into the determination of the benefit accrual for the year. In that case, the normalized pension at the end of the year would be:

30 x .02 x $56,000 = $33,600.

The corresponding benefit accrual would be:

$33,600 - $33,540.50 = $59.50.

In effect, the individual would be considered to accrue benefits under the step-rate provision for only a part of the year because of the operation of the career limit.

The following three examples illustrate the application of various benefit offsets, including an offset for CPP/QPP benefits and offsets for benefits under money purchase and defined benefit provisions of registered pension plans.

Example 9: Assuming that retirement benefits of 1.7 per cent of final average earnings are reduced by 1/35th of actual CPP or QPP benefits for each year of service (to a maximum of 35 years) and that the YMPE for the year is $30,500, the benefit accrual of an individual earning $40,000 would be:

(.017 x $40,000) - (.25 x $30,500 x 1/35) = $462.14.

This result assumes that the individual's total service at the end of the year does not exceed 35 years. For an individual with 35 years of service or more before the start of the year, no adjustment would be made to the benefit accrual in respect of CPP or QPP.

Example 10: An individual's retirement benefits are the sum of (A) benefits under a money purchase provision and (*b*) benefits under a defined benefit provision to the extent that they exceed the money purchase benefits. The individual's pension credit for the year under the money purchase provision is $3,600, the amount of employer plus employee contributions made in the year under the provision. The defined benefit guarantee is 1 per cent of final average earnings up to the YMPE and 1.6 per cent of final average earnings in excess of the YMPE.

Assuming that the individual has earnings of $45,000 in the year and that the year's YMPE is $30,500, the individual's benefit accrual for the year under the defined benefit provision is $137.00, determined as follows:

(.01 x $30,500) + (.016 x $14,500) - ($3,600 ÷ 9) = $137.00

The individual's pension credit for the year under the provision is:

Pension credit (B) = (9 x $137.00) - $1,000 = $233.

Finally, the individual's PA for the year in respect of the participating employer is:

PA = pension credit (A) + pension credit (B)

= $3,600 + $233 = $3,833.

Example 11: An individual is entitled to retirement benefits under two plans of the same employer. Plan A provides a flat benefit of $25 per month ($300 per year) for each year of service. Plan B provides benefits of 0.8 per cent of final average earnings up to the YMPE and 1.5 per cent of final average earnings in excess of the YMPE for each year of service, but these benefits are offset by benefits under plan A. If the individual earns $45,000 in a year and the year's YMPE is $30,500, then the individual's PA for the year in respect of the employer would be determined as follows:

The benefit accrual under plan A is $300.

The benefit accrual under plan B is $161.50, determined as:

(*a*) the benefit accrual in respect of the total benefits provided under plans A and B, that is, $300 + ((.008 x $30,500) + (.015 x $14,500) - $300) = $461.50

minus

(*b*) the benefit accrual under plan A, that is, $300.

(The benefit accrual under plan B could simply be determined as (.008 x $30,500) + (.015 x $14,500) - $300 = $161.50. However, it has been worked out in full to illustrate the application of subsection 8302(6).)

Assuming the full $1,000 offset is taken into account in determining the individual's pension credit under plan A, no part of it may be used to reduce the pension credit under plan B.

Pension credit (A) = (9 x $300) - $1,000 = $1,700.

Pension credit (B) = 9 x $161.50 = $1,454.

PA = pension credit (A) + pension credit (B) = $3,154.

Had the individual earned less than $34,233 in the year, the pension credit for the year under plan B would have been zero, and the individual's PA would have been $1,700.

The final example illustrates the special rules applicable to the determination of PAs for members of multi-employer RPPs that are not specified multi-employer plans.

Example 12: An individual works, either concurrently or sequentially, for two employers who participate in the same multi-employer plan. The individual has pensionable earnings of $20,000 for half a year of credited service with employer A and has pensionable earnings of $15,000 for one-third of a year of credited service with employer B. The individual's annualized levels of earnings are $40,000 and $45,000 with A and B respectively. The multi-employer plan provides benefits of 1.3 per cent of final average earnings up to the YMPE and 2 per cent of final average earnings in excess of the YMPE. The YMPE is $30,500.

Result: The individual's benefit entitlements in respect of employers A and B are $293.25 and $228.83, determined as follows:

Benefit entitlement (A):

((.013 x $30,500) + (.02 x $9,500)) x 1/2 = $293.25

Benefit entitlement (B):

((.013 x $30,500) + (.02 x $14,500)) x 1/3 = $228.83.

The individual's PAs in respect of employers A and B are $2,139 and $1,726, determined as follows:

PA(A) = (9 x $293.25) - ($1,000 x 1/2) = $2,139

PA(B) = (9 x $228.83) - ($1,000 x 1/3) = $1,726

In this example, the individual's pensionable service totals 5/6th of a year so the individual's PAs reflect an offset of $833.33 rather than $1,000. In the unusual case where an individual's credited service periods with participating employers total more than a full year, the PAs can reflect a total offset in excess of $1,000 (notwithstanding the fact that the individual's total credited service under the plan is limited to one year).

As an alternative case, the individual, instead of working for two employers in the year, works for half a year with employer A and is credited with an additional one-third of a year of service in respect of a period of temporary absence with employer A in the year. In this case, unless application of the special rule in paragraph 8301(7)(*c*) is waived by the Minister of National Revenue, the individual's pension credit (and PA) in respect of employer A is the sum of the separately determined portions of the pension credit attributable to the period of active employment and to the period of temporary absence.

Past Service Pension Adjustment
ITR
8303

Section 8303 provides rules for determining the "past service pension adjustment" (PSPA) of an individual for a year in respect of an employer.

A PSPA arises in connection with a "past service event". As defined in subsection 8300(1), a past service event is a transaction, event or circumstance that results in retirement benefits becoming provided to an individual under a defined benefit provision of an RPP in respect of a period before the transaction, event or circumstance occurs, or that alters the method for determining the individual's past service benefits. "Past service event" is broadly defined to include any change in the way in which the past service benefits of a plan member are determined, whether or not the member's benefits are actually increased. Usually, however, a past service event will be either an upgrade in benefits under a plan or the crediting of an additional period of pensionable service under a plan. A past service event is also considered to occur if a member's pension changes as a result of indexing or other automatic adjustments, although the PSPA associated with such a past service event will generally be nil.

A provisional PSPA is associated with each past service event. In general terms, the provisional PSPA is the sum of the additional pension credits that would have been determined for prior years if the RPP had provided for the upgraded benefits or additional period of pensionable service at the time each pension credit was first required to be determined.

Where the provisional PSPA of an individual associated with a past service event is greater than zero, subsection 147.1(10) of the Act requires, except where certain conditions (described below) are satisfied, that a certification of the Minister of National Revenue be obtained before benefits that are provided as a consequence of the past service event may be paid to the individual. The condition set out in subsection 8307(2) must be satisfied before the certification will be issued. In general terms, this condition requires that the individual have sufficient RRSP deduction room to accommodate the provisional PSPA.

Subsections 8306(1) and (2) provide an exemption from the requirement for certification where the following conditions are met (or are substantially met and the requirement for certification is waived by the Minister):

- the benefit improvement must apply to substantially all of the active members of the pension plan;
- the plan must have ten or more members, no more than 25 per cent of whom either have earnings over 2 1/2 times the YMPE or are connected to employers who participate in the plan;
- the benefit improvement must not provide disproportionately greater benefits to highly-paid or connected plan members than to other plan members; and
- the benefit improvement must not provide more advantageous benefits to retired or deferred vested plan members than to active members of the plan.

Subsections 8306(1) and (3) provide an exemption from the certification requirement in certain circumstances where past service benefits are provided in connection with the establishment of a defined benefit provision of an RPP. Subsection 8306(1) also provides an exemption from the certification requirement in the special case where subsection 8304(3) requires a provisional PSPA to be determined in respect of benefits provided on a past service basis during 1990 in respect of service in 1990.

Once a certification has been obtained (or in the case where no certification is required, when benefits become provided), the provisional PSPA associated with the event is included in the individual's accumulated PSPA. The PSPA of an individual for a year is the individual's accumulated PSPA for the year determined at the end of the year.

Section 8304 contains additional rules that apply with respect to benefits provided on a past service basis, including benefits that become provided in a year in respect of a period of earlier service in the same year. In particular, section 8304 specifies a different calculation of provisional PSPA where past service benefits are provided in respect of a period that was previously pensionable service under another defined benefit provision of an RPP or where benefits under a defined benefit provision are reinstated after having been given up.

PSPA in Respect of Employer
ITR
8303(1)

Subsection 8303(1) defines, for the purposes of subsection 248(1) of the Act, the "past service pension adjustment" of an individual for a year in respect of an employer to be the accumulated PSPA of the individual for the year in respect of the employer, determined as of the end of the year. Where an individual has been credited with additional past service benefits in respect of service with two or more employers, the individual will have a PSPA in respect of each employer.

Accumulated PSPA for Year
ITR
8303(2)

Subsection 8303(2) defines, for the purposes of Part LXXXIII, the accumulated PSPA of an individual for a year in respect of an employer, determined as of a specific time in the year, to be the aggregate of certain provisional PSPAs of the individual in respect of the employer. To be included in the aggregate, a provisional PSPA must be associated with

> (*a*) a past service event that has occurred in the year and before the specific time and in respect of which a certification of the Minister is not required, or
>
> (*b*) a certifiable past service event in respect of which the Minister has issued a certification in the year and before the specific time.

Normally, there will be at most one provisional PSPA for an individual in any year. In this case, the individual's accumulated PSPA for the year will be zero until the provisional PSPA is required to be taken into account and will then equal that provisional PSPA for the balance of the year.

The accumulated PSPA of an individual is also defined for the purposes of subsection 204.2(1.3) of the Act. It enters into the determination of the cumulative excess amount of the individual in respect of RRSPs, which forms the base for the excess contributions tax imposed by Part X.1 of the Act.

Provisional PSPA
ITR
8303(3)

Subsection 8303(3) defines an individual's provisional PSPA in respect of an employer associated with a past service event. In general terms, the provisional PSPA of an individual associated with a particular past service event is the amount, if any, by which the aggregate of the individual's defined benefit pension credits, recalculated to reflect the particular past service event and any prior past service events, exceeds the sum of (i) the aggregate of the defined benefit pension credits recalculated to reflect the prior past service events, if any, but not the particular past service event and (ii) the amount of the individual's qualifying transfers from RRSPs, RPPs and DPSPs made in connection with the past service event.

More specifically, the provisional PSPA of an individual in respect of an employer associated with a past service event that occurs at a particular time in a year is the amount determined by the formula

$$A - B - C$$

where

A is the aggregate of all amounts, in respect of years after 1989 and before the year in which the past service event occurs, each of which is the amount that would have been the individual's pension credit for a year in respect of the employer under a defined benefit provision of an RPP had his or her benefit entitlement under the defined benefit provision been equal to his or her redetermined benefit entitlement under the provision, determined in accordance with subsection 8303(4) and as of the particular time that the past service event occurred, B is the aggregate that would be determined for A if the benefit entitlements were redetermined as of the time immediately before the occurrence of the past service event, and

C is the amount of the individual's qualifying transfers made in connection with the past service event (or, where past service is credited with more than one employer, the portion of the amount that is not deducted in computing the provisional PSPA in respect of another employer).

An individual's qualifying transfers in connection with a past service event are defined in subsection 8303(6). In general, a qualifying transfer is an amount transferred by an individual in accordance with the Act from an RRSP, a DPSP, a money purchase RPP or a specified multi-employer plan to fund past service benefits provided to the individual.

This definition of provisional PSPA does not apply in the case of employee contributions to specified multi-employer plans to obtain past service benefits. The provisional PSPA in that case is determined in accordance with subsection 8303(8). As set out in subsection 8303(10), special rules also apply for determining the provisional PSPA of an individual where past service benefits are provided in respect of a period of employment outside of Canada. The definition is also subject to the rules in sections 8304 and 8308 that modify the determination of provisional PSPA in special cases.

Four examples of the application of the determination of provisional PSPAs follow:

> **Example 13**: An employer has established two defined benefit plans. All employees participate in plan X but only certain employees receive supplementary pension benefits under plan Y. Assume that, as of the end of 1992, an individual has three years of post-1989 service credited under plan X and that the total of the pension credits for those years is $12,000. Also assume that the individual was not a member of plan Y throughout those years, and that had he or she been a member the total of the pension credits under both plans would have been $15,000. If the individual becomes a member of plan Y in 1993 and on so doing is credited with three years of past service under that plan (conditional on PSPA certification), then the provisional PSPA would be $3,000 (= $15,000 - $12,000). The originally reported pension credits are deducted in determining the provisional PSPA because they represent the individual's entitlement to benefits immediately prior to the past service

event. As the individual transfers no money purchase funds to obtain the supplemental benefits, the amount of qualifying transfers is zero.

Example 14: An employer maintains two plans for different groups of employees. Assume that, pursuant to a change in position within the company, an individual moves from plan X to plan Y during 1992 and is entitled to exchange benefits under plan X for more generous benefits under plan Y. Again assume that the individual has three years of past service under plan X with pension credits totalling $12,000. Also assume that the pension credits determined under plan Y for the three past years would be $15,000. Again the provisional PSPA is $3,000, as term A in the formula in subsection 8303(3) takes into account only the benefits to which the individual is entitled after giving effect to the past service event while term B in the formula in subsection 8303(3) takes into account only the benefits to which the individual was entitled immediately before the past service event. Again there are no qualifying transfers.

Example 15: An individual quits a defined benefit pension plan, transferring the termination benefit to an RRSP and retaining no right to any further benefits under the plan. Later the individual rejoins the plan and seeks to re-establish pension benefits in respect of the years of prior service. Under these circumstances, where defined benefits were previously provided in respect of the past service period under a plan of the employer but were given up, the modified PSPA calculation set out in section 8304 applies instead of the rules of section 8303. Reference may be made to the commentary on that section.

Example 16: An individual joins a pension plan and seeks to obtain benefits in respect of a period of eligible past service which was not previously service under a defined benefit RPP. The pension credits determined for the past service benefits total $12,000. Assume that the individual transfers $10,000 from his or her RRSP as a contribution to fund the past service benefits. In this case, the individual's provisional PSPA would be $2,000 (= $12,000 - 0 - $10,000).

Redetermined Benefit Entitlement
ITR
8303(4)

Subsection 8303(4) provides rules that define, for the purposes of term A in the formula in subsection 8303(3), the "redetermined benefit entitlement" of an individual under a defined benefit provision in respect of a given year of service and an employer and determined as of a particular time. In general terms, the redetermined benefit entitlement for a year under a provision determined as of a particular time is the benefit entitlement that would have been determined if the retirement benefits had included the benefits provided as a consequence of all past service events occurring at or before the particular time.

More specifically, the redetermined benefit entitlement of an individual under a defined benefit provision in respect of a given year of service and an employer, determined as of a particular time, is the benefit entitlement under the provision in respect of the year and the employer that would be determined under section 8302 if the computation were based on the individual's normalized pension determined in accordance with subsection 8303(5) rather than subsection 8302(3). Essentially, subsection 8303(5) provides that, in redetermining the normalized pension for the given year of past service, all past service events occurring at or before the particular time are to be taken into account while certain benefit increases (such as upgrades in the benefit rate under a flat benefit provision, to the extent justified by increases in average Canadian wages and salaries) are to be ignored.

Normalized Pension
ITR
8303(5)

Subsection 8303(5) defines, for the purposes of subsection 8303(4), the normalized pension of an individual under a defined benefit provision of an RPP at a particular time and with reference to a year (the "pension credit year") as the annual amount of lifetime retirement benefits that would be payable to the individual under the provision immediately after the particular time if the benefits were determined in accordance with the assumptions in paragraphs 8303(5)(*a*) to (*e*) and if certain benefits ("excluded benefits") described in paragraphs 8303(5)(*f*) to (*l*) were excluded. The assumptions are:

(*a*) where lifetime retirement benefits have not commenced to be paid to the individual under the provision before the particular time, they commenced to be paid immediately after that time;

(*b*) where the individual had not attained age 65 before the time of pension commencement (or deemed commencement under paragraph (*a*)), the individual attained age 65 at the time of pension commencement;

(*c*) the amount of the individual's lifetime retirement benefits were determined with regard to all past service events occurring at or before the particular time and without regard to past service events occurring after the particular time;

(*d*) the rules in paragraphs 8302(3)(*c*) to (*p*) were applied to determine the individual's lifetime retirement benefits (except that paragraph 8302(3)(*g*) does not apply if the anti-avoidance rule in subsection 8302(11) is applicable); and

(*e*) where benefits are provided under the provision to the individual in respect of a period of employment in the pension credit year with a former employer who has not participated under the provision and benefits under the provision depend on the individual's remuneration, the individual's remuneration for that period from the former employer were remuneration from an employer who has participated under the provision.

The excluded benefits are:

(*f*) where the formula for determining retirement benefits requires a fixed rate to be multiplied by the duration of all or part of the individual's pensionable service, benefits that result from an increase in the fixed rate prior to the commencement of the individual's pension (or from the first such increase following the commencement of the pension) to the extent that the percentage increase in the fixed rate does not exceed the percentage increase in the average wage (as defined in subsection 147.1(1) of the Act) from its value in the immediately preceding year;

(*g*) in the case of a flat benefit provision, where:

- the benefit increase results from an increase in the existing flat rate that occurs prior to the commencement of the individual's individual's pension (or is the first such increase following the commencement of the pension),

- at the time of the increase, the amount of benefits provided to each plan member under the provision for each year of service does not exceed 40 per cent of the defined benefit limit ($1,722.22, indexed after 1994) for the year of the increase,

- the conditions set out in subsection 8306(2) for the benefit increase to be exempt from the requirement for certification by the Minister of National Revenue are met, and

- only one fixed rate applies to determine the individual's lifetime retirement benefits,

the lesser of the benefits provided as a result of the increase and the benefits that would have become provided if the value of the flat benefit rate had been increased to the greater of:

(i) the rate that would result if the existing flat benefit rate were increased in proportion to the increase in the average wage over the period since the existing benefit rate first became applicable or, if more advantageous, the rate that would result if a previous flat benefit rate under the provision were increased in proportion to the increase in the average wage over the period since that earlier rate first became applicable (or since January 1, 1984 if later), and

(ii) the existing rate plus the rate that will increase the individual's lifetime retirement benefits, for each year since the existing rate was first applicable, by an annual amount of $18 times the individual's pensionable service;

(*h*) in the case of a flat benefit provision, benefits resulting from an increase in the flat benefit rate pursuant to an agreement made before 1992 where the proportionate increase in the flat benefit rate could reasonably be expected not to exceed the proportionate increase in the average wage since the existing benefit rate was first applicable;

(i) in the case of a flat benefit provision under which retirement benefits vary according to a member's job category or earnings in such a manner that the ratio of benefits to earnings does not significantly increase as earnings increase, benefits resulting from a change in the individual's job category or rate of pay; and

(*j*) benefits resulting from an adjustment warranted by increases in the Consumer Price Index or the average wage, where the adjustment is in respect of all or part of the "deferral period" commencing at the latest of:

- the time that the individual's pensionable service ends,
- the end of the latest period for which remuneration is taken into account in determining the individual's benefits,
- the end of the period, if any, for which automatic adjustments to remuneration (as described in paragraph 8302(3)(*h*)) apply in determining the individual's benefits, and
- where the formula for determining the member's benefits includes a flat benefit component, the time at which the fixed rate was established,

and ending at the earlier of the time of the adjustment or the time when lifetime retirement benefits commence to be paid to the individual;

(*k*) benefits resulting from a cost-of-living adjustment made after the pension has commenced to be paid to the individual, where the adjustment is warranted by increases in the Consumer Price Index (CPI) or is a permissible alternative to CPI indexing as described in subparagraph 8503(2)(*a*)(ii); and

(*l*) benefits resulting from an adjustment to the extent that it is warranted by increases in the cost of living or (if the adjustment is in respect of the period before lifetime retirement benefits commence to be paid to the individual) by increases in a general measure of salaries and wages where the benefits would not otherwise be excluded and where the exclusion of the benefits is acceptable to the Minister of National Revenue.

The assumptions in paragraphs 8303(5)(*a*) and (*b*) replace those in paragraphs 8302(3)(*a*) and (*b*). Paragraph (*a*) fixes the time of pension commencement where the pension has not commenced to be paid before the particular time at which the past service event occurs. Paragraph (*b*) ensures that any increase in benefits associated with an increased age of retirement (up to age 65) is taken into account.

Paragraph 8303(5)(*c*) provides that in the redetermination of the normalized pension for a pension credit year, all past service events occurring up to and including the time as of which the determination is being made are to be taken into account. Consider, for example, a flat benefit accrual rate that was $240 ($20 per month) in the year it was earned, that has subsequently been upgraded to $312 and that is now being adjusted to $336. By virtue of paragraph 8303(5)(*c*), the normalized pension, as of the time of the most recent past service event, is based on a benefit rate of $336 while the normalized pension, as of the time immediately before the most recent past service event, is based on a benefit rate of $312 (rather than the original benefit rate of $240). It should be noted, however, that in this example all or part of the increased benefits may be excluded from the normalized pension by virtue of the rule in paragraph 8303(5)(*g*) or where that paragraph is not applicable, by the rule in paragraph 8303(5)(*f*).

Paragraph 8303(5)(*d*) provides that the rules in paragraphs 8302(3)(*c*) to (*p*) apply in the redetermination of a normalized pension with reference to a previous year as if an original determination were being made in respect of that year. For example, the rule in paragraph 8302(3)(*e*) applies with the result that an individual's earnings in other years are assumed to be identical to his or her earnings in that previous year. Thus, if an individual's earnings were $35,000 in the previous year and $45,000 at the time of a later past service event, any normalized pension determined with reference to that previous year would be based on the assumption that earnings in all years were $35,000. Similarly, if under the terms of the plan the individual's earnings of $35,000 in the earlier year were subject to an automatic adjustment in line with the growth in the average wage, the adjustment would be ignored in accordance with the rule in paragraph 8302(3)(*h*). In addition, the rules in paragraphs 8302(3)(*i*), (*j*) and (*k*) apply based on the YMPE, CPP/QPP benefit levels and OAS benefit levels in the previous year. For a further description of the rules in paragraphs 8302(3)(*c*) to (6*p*), reference may be made to the commentary on subsection 8302(3).

Paragraph 8303(5)(*e*) provides for remuneration with a former employer to be taken into account where benefits under a defined benefit provision of an RPP are provided in respect of a period that was a period of employment with the former employer. The remuneration is taken into account as if it were remuneration from an employer who participates under the defined benefit provision.

The calculation, in simple cases, of redetermined benefit entitlements, pension credits and provisional PSPAs is illustrated in examples 17, 18, 19 and 20 that follow the commentary on subsection 8303(10).

Paragraphs 8303(5)(*f*) to (*l*) exclude various benefit increases from the normalized pension, and hence from the redetermined benefit entitlement of an individual. The paragraphs apply both to automatic benefit adjustments, such as the indexing of deferred annuities or pensions-in-pay, and to ad hoc benefit increases whether before or after retirement. As a result of these rules, the provisional PSPA associated with many adjustments to past service benefits will be nil, and thus the benefits will be exempted from the certification requirement in subsection 147.1(10) of the Act.

The exclusion in paragraph 8303(5)(*f*) applies only where the benefit formula includes a flat benefit component, and only with respect to benefits that arise from an increase in the flat benefit rate. Thus, it could apply to upgrades under a flat benefit plan. More commonly, it will apply where benefits under an earnings-related plan are limited to a flat benefit amount, such as the defined benefit limit of $1,722.22 (indexed after 1994) per year of service. In the case of an individual whose earnings are large enough that the flat benefit cap is applicable, an increase in the flat benefit rate will be a past service event that results in higher benefits.

The exclusion in paragraph 8303(5)(*f*) is limited to the benefits arising from an increase in the flat benefit rate that does not exceed the percentage increase in the average wage from the preceding year to the current year. Moreover, the exclusion applies only with respect to the first increase in the flat benefit rate each year. Thus, paragraph 8303(5)(*f*) will provide a complete exclusion of benefit increases warranted by average wage growth only where the benefit increases occur on an annual basis. The exclusion does not apply to benefit adjustments after retirement benefits have commenced to be paid under the provision, except for the first such adjustment. (Benefits arising from subsequent post-retirement adjustments may be excluded under paragraph 8303(5)(*k*).)

Paragraph 8303(5)(*g*) applies in the case of certain upgrades to benefits under a flat benefit provision of an RPP. Subsection 8300(1) defines a "flat benefit provision" to be a benefit provision under which lifetime retirement benefits provided to a member are based on the aggregate of amounts each of which is the product of a fixed rate and either the duration of a period of service or the number of units of output of the member. The exclusion applies to upgrades to an individual's benefits, up to and including the first upgrade after retirement benefits have commenced to be paid to the individual. (Post-retirement upgrades reflecting increases in the cost of living are excluded by paragraph 8303(5)(*k*).) The exclusion applies only if certain conditions are met. First, at the time of the increase the benefits provided to each plan member under the flat benefit provision must not exceed 40 per cent of the defined benefit limit. Thus, the exclusion is not applicable with respect to increases occurring before 1995 if benefits provided to any member exceed $688.89 per year (or $57.41 per month) for each year of service. Second, the plan and the upgrade must satisfy the conditions set out in subsection 8306(2), which are the conditions for the benefit increase to be exempt from certification by the Minister of National Revenue. In general terms, this requirement limits the application of paragraph 8303(5)(*g*) to upgrades of benefits in larger flat benefit plans (ten or more members) where no more than 25 per cent of active plan members are "specified active members" (that is, high-income employees or persons connected with a participating employer) and where disproportionate benefit increases are not given to specified active members. Third, the exclusion applies with respect to a particular plan member only if a single flat benefit rate enters into the determination of the member's benefits.

Where paragraph 8303(5)(*g*) is applicable, it excludes benefits resulting from an increase in the existing flat benefit rate to the greatest of the following amounts:

- the rate that would result if the existing flat benefit rate were increased in proportion to the increase in the average wage (as defined in subsection 147.1(1) of the Act) over the period since the existing rate first became applicable,

- the rate that would result if a previous flat benefit rate under the provision were increased in proportion to the increase in the average wage over the period since that previous rate first became applicable (or since January 1, 1984 if later), and

- the existing rate plus the rate that will increase the individual's lifetime retirement benefits by an annual amount of $18 times the individual's pensionable service, multiplied by the number of years since the existing rate was first applicable.

The application of paragraph 8303(5)(*g*) is illustrated in examples 22 and 23.

Paragraph 8303(5)(*h*) is a transitional rule that excludes benefits resulting from certain flat benefit upgrades that, although effective in 1991 or subsequent years, were agreed to before 1992 and could reasonably be expected, at the time the agreement was made, to approximately match increases in the average wage (as defined in subsection 147.1(1) of the Act). As a consequence, such increases are exempt from PSPA reporting.

Paragraph 8303(5)(*i*) provides an exclusion for benefits arising when a member of a flat benefit plan changes jobs or earnings levels. The exclusion applies to plans where benefits vary by job category or earnings range in such a manner that the ratio of benefits to earnings does not increase significantly as earnings increase. The paragraph would apply, for example, where benefits under a plan were $27.50 per month for those earning between $25,000 and $30,000 per year and $32.50 per month for those earning between $30,000 and $35,000 per year. If it were not for this exclusion, an individual moving from the lower to the higher of the two earnings ranges could have a positive PSPA as a result of the benefit increase.

Paragraph 8303(5)(*j*) applies where deferred vested benefits are adjusted by amounts that are warranted either by increases in the Consumer Price Index (CPI) or by increases in the average wage. It ensures that benefit increases justified by price or wage growth will not give rise to a PSPA. The rule applies on a cumulative basis to such adjustments. For example, benefits may be adjusted by more than the CPI (or average wage) increase in one year if adjustments in previous years have not kept pace with CPI (or average wage) increases. However, the total increase in benefits from the beginning of the deferral period must be warranted by the increase in either the CPI or the average wage over the period. For this purpose, the deferral period begins when the individual's pensionable service ceases, or if later, at the latest of whichever of the following times is applicable:

- at the end of the most recent period for which remuneration is taken into account in determining the individual's benefits,

- where automatic adjustments described in paragraph 8302(3)(*h*) apply in determining the individual's benefits, at the end of the period in respect of which such adjustments apply, and

- where the formula for determining the individual's benefits includes a flat benefit component, at the time as of which the fixed rate applicable to the individual was established.

The deferral period ends at the time of the adjustment in question or, if earlier, the time that retirement benefits commenced to be paid to the individual. (A benefit exclusion for inflation adjustments to pensions-in-pay is provided by paragraph 8303(5)(*k*).) If deferred vested benefits are adjusted by an amount in excess of the amount that is warranted by price or wage increases, this rule does not apply to exclude part of the benefit increase from the individual's redetermined benefit entitlement. However, in that case, paragraph 8303(5)(*l*) may apply to permit a portion of the increased benefits to be excluded.

Paragraph 8303(5)(*k*) applies where retirement benefits are increased after they have commenced to be paid to a member, whether the increase is a result of automatic indexing or ad hoc increases to reflect increases in the Consumer Price Index (CPI). It ensures that inflation-justified adjustments will not give rise to a PSPA. The rule applies on a cumulative basis to such adjustments. For example, benefits may be adjusted by more than the CPI increase in one year if adjustments in previous years have not kept pace with CPI growth, as long as the total increase in benefits from the time they commenced to be paid is warranted by the increase in the CPI over this period. Paragraph 8303(5)(*k*) also excludes benefits arising from other forms of indexing, such as the excess earnings method, but only if the indexing is of a form permitted by subparagraph 8503(2)(*a*)(ii) of the registration rules. If pensions-in-pay are adjusted by an amount in excess of the amount that is warranted by CPI growth, paragraph 8303(5)(*k*) does not apply to exclude part of the benefit increase from the individual's redetermined benefit entitlement. However, in that case, paragraph 8303(5)(*l*) may apply to permit a portion of the increased benefits to be excluded.

Paragraph 8303(5)(*l*) applies in respect of benefits that are not excluded by virtue of the rule set out in paragraph 8302(3)(*h*) or any of the exclusions set out in paragraphs 8303(5)(*f*) to (*k*). It provides for the exclusion from the individual's redetermined benefit entitlement of such portion of the benefit increase as is acceptable to the Minister of National Revenue and may reasonably be considered to be attributable to cost-of-living adjustments or, if the increase is in respect of the period before benefits commence to be paid to the individual, adjustments warranted by increases in a general measure of salaries and wages (such as the average wage, as defined in subsection 147.1(1) of the Act). Paragraph 8303(5)(*l*) is intended to cover those situations where it is appropriate for a portion of the benefits to be excluded in calculating normalized pension, but none of the specific exclusions is applicable. However, the paragraph is not intended to be used to widen the exclusion set out in paragraph 8303(5)(*f*) in respect of benefits arising from an increase in a flat benefit rate.

Qualifying Transfers
ITR
8303(6)

Subsection 8303(6) defines, for the purposes of term C in the formula in subsection 8303(3) (definition of provisional PSPA), the amount of an individual's qualifying transfers. This definition is also applicable for the purposes of the modified PSPA calculation rules in subsection 8304(5). In general terms, qualifying transfers are transfers from RRSPs, DPSPs or money purchase accounts of RPPs to fund past service benefits under a defined benefit provision of an RPP. Such transfers represent, in effect, a shift from plan to plan of amounts which are already tax-sheltered, and so it is appropriate to apply them to offset the provisional PSPA associated with the crediting of past service benefits.

The amount of an individual's qualifying transfers is equal to the sum of amounts transferred to fund benefits where the amounts are transferred in accordance with subsections 146(16) (transfers from RRSPs), 147(19) (transfers from DPSPs), 147.3(2) (transfers from money purchase provisions of RPPs), and 147.3(5) and (7) (transfers between registered plans pursuant to marriage breakdown or the death of a plan member) of the Act, or are transferred from a specified multi-employer plan in accordance with subsection 147.3(3) of the Act.

Except in the case of transfers from specified multi-employer plans, transfers from a defined benefit provision of one RPP to a defined benefit provision of another plan in accordance with subsection 147.3(3) of the Act are not included as qualifying transfers. Thus, where an individual transfers from one defined benefit plan to another, the provisional PSPA associated with the past service benefits credited to him or her under the new plan does not depend on the amounts transferred between the plans in connection with the transfer. (The provisional PSPA in this case is calculated in accordance with the rules in subsection 8304(5).)

Deemed Payment
ITA
8303(7)

Subsection 8303(7) deems an amount to have been paid to an RPP where an individual has given an irrevocable direction that the amount be paid once the Minister has issued a certification, and the amount will be paid within 90 days of the certification. This rule applies for the purpose of subsection 8303(6), and enables an amount to be counted as a qualifying transfer for the purpose of the definition of a provisional PSPA even though the physical transfer will not occur until a certification has been issued.

Specified Multi-Employer Plan
ITR
8303(8)

Since specified multi-employer plans are treated as money purchase plans for the purpose of determining PAs, the rules regarding redetermined benefit entitlements have no relevance to any benefit upgrades under these plans. Employer contributions made to fund any benefit upgrades are reflected in the annually reported PA amounts.

A provisional PSPA may result, though, where a plan member makes a contribution in respect of past service benefits provided to him or her in respect of pensionable service under the plan after 1989.
Subsection 8303(8) provides that the provisional PSPA associated with such a past service contribution is the amount of the contribution. A certification must be obtained from the Minister of National Revenue, as required by subsection 147.1(10) of the Act, before the benefits in respect of which the contribution is made may be paid by the plan. For the purpose of subsection 8303(8), past service contributions do not include contributions made in a year in respect of a plan year commencing in the preceding year and ending in the year. Nor do they include contributions made in January of a year in respect of service in the immediately preceding year. Such contributions are, by virtue of paragraph 8301(5)(*a*), included in PA in the year in which they are made.

Subsection 8303(8) also provides that the plan administrator is responsible for determining the allocation of a member's past service contribution among participating employers, in order to determine the PSPA in respect of each employer. (However, in practice, apportionment of such a contribution will generally not be necessary for purposes of seeking a certification in respect of past service benefits.)

Conditional Contributions
ITR
8303(9)

Subsection 8303(9) provides that amounts paid to a plan by a member conditional on the Minister's certification in respect of the associated benefits are to be considered as contributions for the purpose of subsection 8303(8).

Benefits in Respect of Foreign Service
ITR
8303(10)

Subsection 8303(10) provides that, with the written consent of the Minister of National Revenue, the provisional PSPA of an individual in respect of benefits provided under a defined benefit provision of an RPP for a period of past service outside Canada is nil. In this connection, subparagraph 8503(3)(*a*)(vii) provides that a period of service outside Canada must be acceptable to the Minister for it to qualify as eligible service under a defined benefit provision of an RPP.

Examples

The rules in section 8303 for determining provisional PSPAs are illustrated in the following examples.

> **Example 17**: An RPP provides for a two-year waiting period before an employee may join the plan and permits employees to elect to purchase the two years of service upon joining the plan. The benefits are 1 per cent of final average earnings for each year of service. Assume that an employee (hired on January 1 of a year) earns $28,000 in the first year of employment and $30,000 in the second year, and that the employee elects to purchase the two years of service upon completing the waiting period. This election to purchase is a past service event. The associated redetermined benefit entitlements, pension credits and provisional PSPA are calculated as follows:
>
> (A) Redetermined pension credits as of the time of the past service event:

First year
- benefit entitlement = .01 x $28,000 = $280.00
- pension credit = (9 x $280) - $1,000 = $1,520

Second year
- benefit entitlement = .01 x $30,000 = $300.00
- pension credit = (9 x $300) - $1,000 = $1,700

Total redetermined pension credits as of the time of the past service event (A amount)	$3,220
(B) Total redetermined pension credits immediately before the past service event (B amount)	$0
(C) Amount of qualifying transfers (C amount)	$0
Provisional PSPA = A - B - C	$3,220

The above example illustrates the point that, in redetermining the employee's pension credits, the redetermined benefit entitlement for a pension credit year is based on remuneration in the pension credit year rather than remuneration at the later time of the past service event. (This results from the fact that the assumption in paragraph 8302(3)(*e*) is maintained in the redetermination of the normalized pension for purposes of calculating a PSPA.)

Where an RPP provides a waiting period before an employee "joins" the plan, but automatically provides benefits in respect of the waiting period once the employee does join the plan, benefits may be considered to become provided to the individual during the waiting period. The situation is the same, in substance, as where a plan provides for immediate entry into the plan but no vesting of benefits until after a specified period. Therefore, it would be appropriate to determine and report PAs throughout such a waiting period, rather than, as in the above example, treating the "entry" into the plan as a past service event with the benefits in respect of the waiting period subject to certification by the Minister. The regulations do not specifically deal with this point. It is intended to permit the use of whichever approach is chosen by the plan sponsor.

Example 18: In 1992, the benefit rate under a plan is increased retroactively from 1 per cent to 1.5 per cent (unintegrated with CPP/QPP or OAS). For a particular plan member, the change applies in respect of service beginning in 1983. Assume that the member's earnings were

$20,000 in each of 1990 and 1991. The member's redetermined pension credits and provisional PSPA would be calculated as follows:

(A) Redetermined pension credits as of the time of the past service event:

- benefit entitlements for each of 1990 and 1991:

  .015 x $20,000 = $300.00

- total redetermined pension credits (A amount):

  2 years x ((9 x $300.00) - $1,000) = $3,400

(B) Redetermined pension credits as of the time immediately before the past service event:

- benefit entitlements for each of 1990 and 1991:

  .01 x $20,000 = $200.00

- total redetermined pension credits (B amount):

  2 years x ((9 x $200.00) - $1,000) = $1,600

(C) Amount of qualifying transfers (C amount) = 0

Provisional PSPA = A - B - C = $1,800

Note that, in the above example, the recalculated pension credits are determined only for 1990 and 1991. Additional benefits in respect of pre-1990 service are not subject to the certification process and are not reflected in the provisional PSPA.

Example 19: In 1995, earnings in a career average plan are replaced, for years prior to 1995, by average earnings in the 1992-1994 period for purposes of determining benefits. Result: such a change results in a provisional PSPA of nil so a certification of the Minister of National Revenue is not required before benefits may be paid under the plan as amended. The definition of normalized pension in subsection 8303(5) maintains the assumption in paragraph 8302(3)(*e*) that earnings for all years of service are the same as earnings for the year in respect of which a pension credit is being determined. Consequently, a change in the years of earnings upon which benefits are based results in a redetermined benefit entitlement that is the same as the original benefit entitlement.

Example 20: A plan provides benefits based on a career average formula where the level of pensionable earnings for each year is automatically adjusted in accordance with the increase in the average wage to the year of pension commencement. Result: these adjustments are ignored in determining pension credits by the application of paragraph 8302(3)(*h*). Thus terms A and B in the formula for provisional PSPA are equal and the provisional PSPAs for members of the plan are nil. It may be noted that the maximum pension rule applicable to connected persons, set out in subparagraph 8504(1)(*a*)(*i*), restricts benefits to amounts determined on the basis of average-wage-indexed career earnings.

The following example illustrates the application of paragraph 8303(5)(*f*).

Example 21: Benefits are upgraded under a flat benefit plan to which, because more than 25 per cent of its active members are specified active members (high-income employees or individuals connected with the employer), the benefit exclusion in paragraph 8303(5)(*g*) does not apply. The annual benefit rate is increased in 1991 from $1,150 per year of service (which was effective in 1990) to $1,200 per year of service. Assume that the average wage (as defined in subsection 147.1(1) of the Act) for 1991 is 5 per cent higher than for 1990.

Result: For a member who accrued benefits in 1990 (the only year that is relevant for PSPA purposes), the benefit entitlement in respect of that year, redetermined as of the time of the upgrade in 1991, is calculated excluding the upgrade to the extent that it does not exceed $57.50 (= 5 per cent of the benefit rate of $1,150). Thus, the redetermined benefit entitlement does not include any portion of the increase in 1991, and the member's provisional PSPA is zero.

If, instead, the benefit rate had been increased to $1,225 (an increase of $75), the benefit entitlement of a plan member who accrued benefits in 1990, redetermined as of the time of the upgrade in 1991, would be calculated excluding $57.50 (= 5 per cent of $1,150). Assuming that the member has a full year of credited service in 1990, this would produce a redetermined benefit entitlement of $1,167.50 (= $1,225 - $57.50). The member's provisional PSPA associated with the upgrade would be $158, calculated as follows:

(A) Total redetermined pension credits as of the time of the past service event (A amount)

1 year x ((9 x $1,167.50) - $1,000) = $9,508

(B) Total redetermined pension credits as of the time immediately before the past service event (B amount)

1 year x ((9 x $1,150.00) - $1,000) = $9,350

(C) Amount of qualifying transfers (C amount) = $0

Provisional PSPA = A - B - C = $158.

If, as a second alternative, the benefit rate had been upgraded to $1,225 in 1991 from a benefit rate of $1,150, and this latter rate had become effective in 1989, the provisional PSPA determined in accordance with this paragraph would also be $158. Paragraph 8303(5)(*f*) does not provide benefit exclusions based on wage increases over a period beginning earlier than the year immediately preceding the year of the benefit improvement.

The following two examples illustrate the application of paragraph 8303(5)(*g*).

Example 22: The benefit rate under a flat benefit plan is increased in 1991 from $240 per year ($20 per month) to $260 per year. The previous upgrade occurred in 1989. Assume that the average wage for 1991 is 10 per cent higher than that for 1989 and that the upgrade qualifies for application of paragraph 8303(5)(*g*).

Result: for a member who accrued benefits in respect of 1990 (the only year that is relevant for PSPA purposes), the benefit entitlement in respect of that year, redetermined as of the time of the upgrade in 1991, is calculated excluding the lesser of the upgrade of $20 and $24 (= 10 per cent of the benefit rate of $240). Thus, the redetermined benefit entitlement does not include any portion of the increase in 1991, and the member's provisional PSPA is zero.

Example 23: The benefit rate under a flat benefit plan is increased on July 1, 1992 from $240 per year to $360 per year. The previous upgrade occurred on July 1, 1987. Assume that the average wage for 1992 is 30 per cent higher than that for 1987. Thus, the average-wage-indexed benefit rate is $312 (= $240 x 1.3). Assume further that if the benefit rates in effect for 1984 to 1986 were wage indexed, they would be less than $312.

Result: for each of the years 1990 and 1991, the benefit entitlement of a plan member who accrued benefits in those years, redetermined as of the time of the upgrade in 1992, is calculated excluding $90 from the benefit rate. This amount is equal to the greater of $72 (= 30 per cent of $240) and $90 (= $18 x 5 years since last upgrade). This produces a redetermined benefit entitlement of $270 (= $360 - $90). The member's provisional PSPA associated with the upgrade is $540, calculated as follows:

(A) Total redetermined pension credits as of the time of the past service event (A amount)

2 years x ((9 x $270.00) - $1,000) = $2,860

(B) Total redetermined pension credits as of the time immediately before the past service event (B amount)

2 years x ((9 x $240.00) - $1,000) = $2,320

(C) Amount of qualifying transfers (C amount) = $0

Provisional PSPA = A - B - C = $540.

The following example illustrates the application of paragraph 8303(5)(*j*).

Example 24: An individual terminates from a final average plan and becomes entitled to a deferred annuity. The deferred annuity is automatically adjusted each year before it commences to be paid in proportion to all or part of the annual increase in the average wage. Paragraph 8303(5)(*j*) permits these increases to be excluded in determining the individual's benefit entitlements as of the time of each upgrade. Consequently, the provisional PSPA associated with each adjustment will be nil, and a certification from the Minister of National Revenue will not be required before the increases may be paid. This would also be the result if, instead of being adjusted automatically, the deferred annuity were subject to ad hoc increases none of which increased retirement benefits beyond an amount justified by the increase in the average wage from the year of the employee's termination to the year of the increase in benefits.

The following example illustrates the application of paragraph 8303(5)(*l*).

> **Example 25**: An individual's benefit entitlement under a plan for the year 1990 is $250 based on a career average benefit of 1 per cent of 1990 earnings of $25,000. In a subsequent year, benefits in respect of 1990 service are increased by 30 per cent, raising the individual's benefit entitlement to $325. None of the benefit exclusions in paragraphs 8303(5)(*f*) to (*k*) applies in this case. However, paragraph 8303(5)(*l*) provides an exclusion for such portion of the benefits as is acceptable to the Minister of National Revenue. If the average wage (as defined in subsection 147.1(1) of the Act) grew by 30 per cent or more from 1990 to the year of the upgrade and if the Minister permitted paragraph 8303(5)(*l*) to apply with respect to the increase, the full $75 increase would be excluded from the benefit entitlement redetermined as of the time of the past service event. Consequently, that redetermined benefit entitlement would equal $250, the benefit entitlement redetermined as of the time immediately before the upgrade. The provisional PSPA associated with the change in benefits would be nil. If, instead, the average wage had grown by 20 per cent, then $50 (= 20 per cent of $250) could be excluded, by virtue of paragraph 8303(5)(*l*), from the benefit entitlement, redetermined as of the time of the past service event. The redetermined benefit entitlement reflecting the upgrade would thus equal $275. The additional $25 of benefits would be reflected in a provisional PSPA of the individual.

Past Service Benefits -- Additional Rules

ITR
8304

Section 8304 contains additional rules relating to the determination of PSPAs and pension credits. The section provides rules to deal with three sets of circumstances.

First, the rules in subsections 8304(1) and (2) apply where an individual's defined benefits under one benefit provision are replaced by defined benefits under another benefit provision, or where the individual's money purchase benefits are replaced by defined benefits, otherwise than on a change in employers. In this case, the individual's pension credit relating to the former benefits is set to nil for the year in which the former benefits are replaced.

Second, the rules in subsection 8304(3) apply where past service benefits become provided to an individual in a year in respect of a new period of pensionable service in the year. The general rule is that the past service benefits are reflected in a PSPA rather than in the individual's PA for the year. However, certain exceptions to this rule are set out in subsection 8304(4).

Third, subsections 8304(5) to (9) modify the calculation of PSPA where past service benefits are provided under a defined benefit provision of an RPP in respect of a period which was previously pensionable service under the same, or another, defined benefit provision. This modified PSPA will apply, for example, where past service benefits are transferred between plans when an individual changes jobs. It will also apply where an individual terminates from a defined benefit plan, transfers a termination benefit to an RRSP, and later seeks to re-establish the past service benefits under the same plan (on re-employment with a participating employer) or another plan. In general terms, the modified PSPA is equal to the PSPA determined according to the rules set out in section 8303, reduced to reflect the pension credits already reported in respect of the formerly-provided defined benefits, and increased to reflect the amount of any termination benefit transferred to an RRSP or money purchase RPP.

Replacement of Defined Benefits
ITR
8304(1)

Subsection 8304(1) applies where benefits provided to an individual under a defined benefit provision of an RPP have been replaced in a year by benefits under another defined benefit provision of an RPP maintained by the same employer(s). Other conditions for the application of the subsection are, first, that no amounts have been transferred from the former provision to an RRSP or money purchase RPP in respect of the individual, and, second, that no benefits have become provided to the individual under the former provision in the year after the time of the benefit replacement. Under these circumstances, the subsection provides that the pension credit of the individual for the year under the former provision is nil.

Where subsection 8304(1) applies, an exception is made by paragraph 8304(4)(*a*) to the general rule in subsection 8304(3) that past service benefits provided in a year for a period in the same year are included in determining PSPA. Instead, the pension credit determined for the individual under the replacement provision will reflect the benefits provided for the full period of service in the year.

Replacement of Money Purchase Benefits
ITR
8304(2)

Subsection 8304(2) contains a rule which applies where benefits provided to an individual under a money purchase provision of an RPP or under a DPSP have been given up in exchange for benefits under a defined benefit provision of an RPP maintained by the same employer(s). The rule applies only if no amount was transferred from the money purchase RPP or DPSP to an RRSP or other money purchase arrangement on behalf of the individual and only if no contributions were made under the money purchase RPP or DPSP by, or on behalf of, the individual in the year after the time of the benefit replacement. Under these circumstances, the subsection provides that the pension credit of the individual for the year under the money purchase provision or DPSP is nil.

Where subsection 8304(2) applies, paragraph 8304(4)(*a*) provides an exception to the general rule in subsection 8304(3) that past service benefits provided in a year for a period in the same year are included in determining PSPA. Instead, the pension credit determined in respect of the benefits provided to the individual under the defined benefit replacement provision will reflect the benefits provided for the full period of service in the year.

Past Service Benefits in Year of Past Service Event
ITR
8304(3)

Subsection 8304(3) contains rules that apply where past service benefits become provided to an individual under a defined benefit provision of an RPP in respect of a period in the year in which the past service event occurs. The rules apply only if the period is new pensionable service under the provision (or more precisely, if the period was not pensionable service immediately before the past service event). Exceptions to the application of these rules are set out in subsection 8304(4). In addition, the Minister of National Revenue may waive the application of the rules in particular situations. A waiver must be in writing to be effective.

Where subsection 8304(3) applies, it provides that the individual's pension credit under the defined benefit provision is to be calculated without including the past service benefits. Instead, a provisional PSPA is to be determined in respect of the past service benefits as if they had become provided immediately after the end of the year. Reasonable assumptions are to be made with respect to any relevant information that is not available when the provisional PSPA is calculated.

Paragraph 8304(3)(*e*) provides that subsection 147.1(10) of the Act is to apply as if the past service benefits had become provided immediately after the end of the year. This means that, where the past service event is not exempt from certification, the benefits may not be paid until a certification has been obtained and the benefits may not be funded until an application for certification has been made.

If the past service benefits became provided in 1990, paragraph 8304(3)(*b*) provides that the benefits are deemed, for the purposes of Part LXXXIII, to have become provided at the beginning of 1991. A related rule in subsection 8306(1) exempts the benefits from the PSPA certification requirement. As a consequence of these rules, the provisional PSPA associated with the benefits will be included in determining the individual's PSPA for 1991.

Exceptions
ITR
8304(4)

Subsection 8304(4) provides that subsection 8304(3) does not apply with respect to past service benefits provided to an individual in respect of a period in a year if:

- the benefits became provided in circumstances in which subsection 8304(1) or (2) is applicable; that is, on the replacement of benefits under a defined benefit or money purchase provision (or under a DPSP) by benefits under a defined benefit provision of the same employer(s);

- the individual was not previously entitled to benefits under any defined benefit provision in respect of the period, and no contributions were made on behalf of the individual to a money purchase RPP or a DPSP in respect of the period; or

- the period was previously a period of pensionable service of the individual under the provision under which the past service benefits are provided, and no amount has been transferred from the plan to an RRSP or money purchase provision of an RPP on behalf of the individual -- for example, where the individual terminated employment

> in the year and lost all rights to benefits, which were subsequently reinstated in the same year on re-employment.

In these situations, the normal PA rules apply. This means that the individual's pension credit under the defined benefit provision under which the past service benefits became provided will reflect the past service benefits.

Examples 26 and 27 illustrate the application of these rules.

> **Example 26**: An individual changes jobs on April 1, 1992 and applies to transfer five years of service credits under the defined benefit plan of employer A to the defined benefit plan of employer B. In this situation, subsection 8304(3) provides that the individual's pension credit for 1992 under employer B's plan will not reflect any benefits provided in respect of the period in 1992 before April 1. These benefits will be reflected instead in a provisional PSPA determined in respect of the past service benefits provided for 1990, 1991 and the first three months of 1992. This provisional PSPA will be calculated in accordance with the formula in subsection 8304(5) and, in general terms, will equal the provisional PSPA calculated by applying the rules in section 8303 and reducing this amount by the PAs reported (or reportable) by employer A. Employer A will determine and report, in the normal manner (taking into account the non-vested termination rules in subsection 8301(8)), a PA in respect of the individual for the three months of service in 1992.

> **Example 27**: An individual who is a member of a defined benefit RPP (plan A) receives a promotion on July 1, 1992 and, as a consequence, becomes entitled to benefits under a second, more generous defined benefit plan (plan B) maintained by the individual's employer, in lieu of benefits under plan A. In this situation, subsection 8304(1) provides that the individual's pension credit for 1992 under plan A is nil. In addition, subsection 8304(4) applies to exempt the 1992 past service benefits under from the rules in subsection 8304(3). Hence, benefits under plan B in respect of the first six months of 1992 are reflected in the individual's pension credit for 1992 under plan B. The administrator of plan B must submit for certification by Revenue Canada a PSPA determined in respect of the additional benefits for 1990 and 1991 (and the individual's entitlement to those additional benefits must be contingent upon the certification being obtained).

Modified PSPA Calculation
ITR
8304(5)

The main rule for calculating provisional PSPA is set out in subsection 8303(3). Subsection 8304(5) modifies this calculation in situations where an individual is credited with past service benefits in respect of a period that was pensionable service under another defined benefit provision. In effect, the provisional PSPA is calculated as if the individual's new benefits were a modification of the prior benefits. Thus, the provisional PSPA will measure the extent to which the individual's benefits have been upgraded. Also, if any amounts were transferred from the prior provision to an RRSP or money purchase RPP on behalf of the individual, the amount of the transfers is included in the individual's provisional PSPA.

By virtue of subsection 8304(6), where an individual ceases to be entitled to benefits under a defined benefit provision and benefits are later reinstated under the provision (for example, on re-employment), the provisional PSPA associated with the reinstatement is to be determined in accordance with subsection 8304(5).

Subsection 8304(5) applies where past service benefits become provided to an individual under a defined benefit provision of an RPP and all of the following conditions are met:

- The period in respect of which the benefits are provided was not pensionable service of the individual under the provision immediately before the past service event. That is, the past service event is not simply an upgrade of benefits.

- The past service period is, or was, pensionable service of the individual under another defined benefit provision of an RPP (the "former provision").

- The individual has ceased to be entitled to benefits under the former provision, or else the individual's entitlement to benefits under the former provision will cease either upon certification of the past service benefits or upon the payment of termination benefits within 90 days after certification of the past service benefits.

- The past service benefits are considered to be attributable to the individual's employment with only one employer who participates in the plan (the "current employer").

- The benefits to which the individual was entitled under the former provision have not been taken into account in determining another provisional PSPA of the individual under subsection 8304(5). This condition is necessary to ensure that once the former benefits have served to reduce a provisional PSPA, they are not taken into account in determining any subsequent PSPAs.

The condition that the past service benefits be considered to be attributable to employment with a single employer is included to keep the rule in subsection 8304(5) for determining modified provisional PSPAs as simple as possible. Where only one employer participates in the RPP on behalf of the individual, the condition will be satisfied, since this is the only employer with whom the past service benefits can be associated. Where two or more employers participate in the RPP on behalf of the individual, the past service benefits could be associated with just one of those employers. However, if the benefits are associated with more than one employer, the special rules in subsection 8304(7) will apply. These rules extend the application of subsection 8304(5) to the case where past service benefits are attributable to employment with two or more employers. (The association of benefits with employers is necessary because provisional PSPA and related amounts are defined on an employer-by-employer basis. For further comments on the association of benefits with employers, reference may be made to the commentary on section 8305.)

Where the above conditions are met the provisional PSPA of the individual in respect of the current employer associated with the provision of the past service benefits is equal to

$$A + B + C - D$$

In this formula:

A is the provisional PSPA that would be determined if:

- the regular rule in subsection 8303(3) were applicable;

- benefits under the former provision had ceased to be provided at the time at which the past service benefits became provided;

- benefits under the former provision were considered to be attributable to the individual's employment with the current employer; and

- the value of C (qualifying transfers) in the formula in subsection 8303(3) were nil.

B is nil except where subsection 8301(8) (PA in year of termination) has applied or will apply to reduce a pension credit of the individual for a year under the former provision; in that case, B is the difference between the individual's pension credit for the year if subsection 8301(8) were not applicable and the individual's pension credit actually determined for the year.

C is the total of all amounts transferred on behalf of the individual from the former provision to an RRSP, a money purchase provision of an RPP or a defined benefit provision of a specified multi-employer plan, to the extent that the amount may be considered to relate to benefits provided under the former provision in respect of service after 1989.

D is the amount of the individual's qualifying transfers made in connection with the provision of the past service benefits, determined in accordance with the rules set out in subsection 8303(6).

In general terms, amount A is the provisional PSPA that would be determined under subsection 8303(3) if the past service event consisted of the replacement, under the same defined benefit provision, of the former benefits by the past service benefits. Thus, amount A will be non-zero only if the total pension credits for the past service benefits exceed the total redetermined pension credits for the former benefits.

Where the individual has terminated from the former provision without vested benefits, the year of termination rule in subsection 8301(8) may apply to reduce the pension credit that is reported for the individual for the last year of participation under that provision. However, in calculating the amount A, the unreduced pension credit will be used. This follows from the assumption required to be made in calculating amount A that the former benefits were attributable to employment with the individual's current employer. Amount B is included in the formula in subsection 8304(5) to take into account any discrepancy between the redetermined pension credit for the year of termination that enters into the calculation of provisional PSPA and the pension credit for that year that has been, or will be, reported in respect of the individual.

Amount C adds to the provisional PSPA the amount of any transfers from the former provision to an RRSP or other money purchase vehicle. This amount is necessary to ensure that the rules do not permit a doubling-up of tax assistance by means of the re-establishment of defined benefits for a period of service in respect of which benefits have been retained in money purchase form.

Amount D provides an offset, as under the regular PSPA formula in subsection 8303(3), for qualifying transfers from a money purchase plan to fund the past service benefits.

Subsection 8304(8) contains additional rules that apply for the purposes of subsection 8304(5). In particular, these rules apply with respect to the calculation of amounts B and C in special circumstances.

Three examples of the application of this modified PSPA calculation follow the commentary on subsection 8304(9).

Reinstatement of Benefits
ITR
8304(6)

Subsection 8304(6) allows PSPA to be determined pursuant to subsection 8304(5) where benefits provided to an individual under a defined benefit provision are given up and then later reinstated under the same provision. More specifically, subsection 8304(6) applies where past service benefits are provided to an individual under a defined benefit provision of an RPP in respect of a period that was previously pensionable service of the individual under the provision but was not pensionable service immediately before the time at which the past service event occurred. Under these circumstances, the provisional PSPA associated with the past service benefits is to be determined as if the past service benefits had become provided under another defined benefit provision of an RPP. As a consequence, subsection 8304(5) will generally apply with respect to the determination of the provisional PSPA.

One of the conditions in subsection 8304(5) for the application of that subsection is that the individual cease to be entitled to benefits under the former provision. Paragraph 8304(6)(*d*) provides that this condition is not applicable in determining whether subsection 8304(5) applies in the circumstances set out in subsection 8304(6). Consequently, the modified PSPA calculation will apply where the individual has left contributions on deposit in the plan between the time lifetime retirement benefits were lost and the time they were reinstated.

Two or More Employers
ITR
8304(7)

Subsection 8304(7) extends the application of subsection 8304(5) to the case where past service benefits provided to an individual under the current defined benefit provision are attributable to the individual's employment with two or more employers. Subsection 8304(7) applies where past service benefits provided to an individual under a defined benefit provision of an RPP are attributable to employment of the individual with two or more employers who participate in the RPP and the modified PSPA calculation set out in subsection 8304(5) would apply if it were not for the "single employer" condition in paragraph 8304(5)(*c*).

In these circumstances, subsection 8304(7) provides that each provisional PSPA of the individual associated with the past service benefits is to be determined in accordance with the formula in subsection 8304(5) except that:

- in determining the amount A, the individual's benefits under the former defined benefit provision are to be considered attributable to employment with the individual's current employers, with the portion attributable to each employer to be determined by the plan administrator in a manner that is consistent with the association of the past service benefits with each employer;

- the amounts B and C are to be included in only one PSPA of the individual, as determined by the plan administrator; and

- the total of the amounts D deducted in computing the provisional PSPAs cannot exceed the individual's qualifying transfers made in connection with the crediting of the past service benefits.

It is anticipated that, in practice, past service benefits will usually be attributed to employment with only one of the current employers, and thus there will be few situations in which the rule in subsection 8304(7) will apply.

Additional Rules Re Calculation of PSPA
ITR
8304(8)

Subsection 8304(8) contains four additional rules that apply for the purposes of the calculation of provisional PSPA under subsection 8304(5).

Paragraph 8304(8)(*a*) provides that where an amount remains to be paid on behalf of the individual from the former defined benefit provision at the time when application is made for a certification in respect of the past service benefits, the amount C in the formula in subsection 8304(5) is to be determined on the assumption that the amount will be transferred to an RRSP. The rule does not apply, however, with respect to an amount that will be transferred to fund the past service benefits.

Paragraph 8304(8)(*b*) provides that any amounts credited to the individual under a money purchase provision of an RPP in lieu of benefits under a defined benefit provision of the plan are to be considered to be benefits paid from the defined benefit provision and transferred to the money purchase provision. This rule ensures that such amounts will be included in amount C in the formula in subsection 8304(5).

Paragraph 8304(8)(*c*) provides that the amount B (adjustment in respect of a reduced pension credit in the year of termination) in the formula in subsection 8304(5) is to be determined assuming that no benefits will accrue to the individual under the former provision after the time at which the determination is made. This rule is necessary where the past service benefits are credited in the same year in which the individual terminated from the former provision, since the applicability of subsection 8301(8) to the determination of the individual's pension credit under the former provision for the year of termination depends on whether the individual becomes entitled to benefits again under the former provision before the end of the year.

Paragraph 8304(8)(*d*) provides that where past service benefits are provided to an individual in respect of two or more separate periods, the periods are to be considered to be a single period. This rule is required because subsection 8304(5) contemplates past service benefits in respect of a single period.

Specified Multi-Employer Plans
ITR
8304(9)

Subsection 8304(9) provides that references in section 8304 to defined benefit provisions are not to include defined benefit provisions of specified multi-employer plans. The reason for this rule is that these provisions are generally treated as money purchase provisions for PA and PSPA purposes. Subsection 8304(9) does not apply, however, for the purposes of paragraph 8304(4)(*b*), which provides an exception to the general rule that current year benefits provided on a past service basis in respect of a new period of pensionable service are to be reflected in a PSPA rather than a PA. Thus, the accrual of benefits under a defined benefit provision of a specified multi-employer plan has the same consequences, for the purposes of paragraph 8304(4)(*b*), as does the accrual of benefits under any other defined benefit provision.

Examples

The rules in section 8304 for determining modified provisional PSPAs are illustrated in the following examples.

> **Example 28**: At the end of 1994, an individual changes jobs and seeks to have defined benefit credits in respect of 6 years of service (1989 to 1994) transferred to the new employer's plan. Benefits under both the individual's former plan and the new plan are 2 per cent of earnings per year of service less an identical offset for CPP or QPP benefits. For both plans, the pension credits for the years 1990 to 1994, based on the individual's earnings in those years, total $30,800. Under a reciprocal transfer agreement, a termination benefit of $38,000 is transferred from the former plan to the new plan to fund the defined benefits provided under that plan. In this case, the modified provisional PSPA is determined as follows:
>
> $$\begin{aligned}\text{Provisional PSPA} &= A + B + C - D\\ &= 0 + 0 + 0 - 0 = 0\end{aligned}$$
>
> Amount A is zero because the pension credits in respect of the benefits under the new plan are fully offset by the pension credits in respect of the benefits given up under the former plan. As the termination benefit

is transferred in its entirety to fund defined benefits under the new plan, it is not included in amount C.

Example 29: As in example 28, an individual changes jobs and transfers defined benefits between plans. This example differs from example 28 only in the fact that benefits under the former plan are 1.8 per cent of earnings per year of service less an offset for CPP or QPP benefits. The sum of the pension credits in respect of years 1990 to 1994 is $25,200. Here, the provisional PSPA is determined as follows:

Provisional PSPA = A + B + C - D
= ($30,800 - $25,200) + 0 + 0 - 0
= $5,600

Example 30: Half-way through 1991, an individual leaves employment with an employer and loses entitlement to pension benefits based on 2½ years of service under an RPP promising benefits of 2 per cent of earnings per year of service less an offset for CPP or QPP benefits. A termination benefit of $9,500, determined as a return of employee contributions plus interest, is transferred to an RRSP on the individual's behalf. For the 1½ years of post-1989 service, the individual's pension credits, determined without regard to the "PA in year of termination rule" in subsection 8301(8), total $8,800. However, the PA actually determined for 1991, under subsection 8301(8), is $1,800 rather than $2,600, the amount that would be determined but for subsection 8301(8). After the end of 1991, the individual joins the plan of a new employer and is provided with past service benefits in respect of the 2½ years of previous pensionable service under the former plan. The benefit formula under the new plan is identical to the formula under the former plan. The individual does not transfer any amount from an RRSP or other money purchase vehicle to fund the past service benefits. In this case, the individual's provisional PSPA is determined as follows:

Provisional PSPA = A + B + C - D
= 0 + $800 + $5,700 - 0
= $6,500.

In this calculation, amount A is zero because the pension credits in respect of the former benefits fully offset the pension credits in respect of the new benefits. Amount B, the adjustment for the reduced PA reported in the individual's year of termination from the former plan, is obtained by subtracting the special pension credit of $1,800 from the normal pension credit of $2,600. Amount C is the portion of the RRSP transfer of $9,500 that relates to post-1989 service ($5,700 = 0.6 x $9,500). Amount D is zero because the individual transferred no funds from an RRSP or other money purchase plan to fund the defined benefits under the new plan. Had the individual instead transferred $5,000 from an RRSP to fund the defined benefits, amount D would be $5,000 and the provisional PSPA would be reduced to $1,500.

The modified PSPA calculation in example 30 would also apply if previously-provided benefits under the former plan had been reinstated on the re-employment of the individual with his or her previous employer.

Association of Benefits with Employers
ITR
8305(1)

Subsection 8305(1) provides that, where it is necessary for the purposes of determining pension credits or PSPAs to determine the portion of an amount of benefits provided to a member of an RPP under a defined benefit provision of the plan that is attributable to employment with a particular employer:

- the determination is to be made by the plan administrator;

- benefits provided as a consequence of services rendered to an employer who participates in the plan are to be attributed to employment with that employer without regard to whether the benefits become provided at the time the services were rendered or at a subsequent time; and

- the determination is to be made in a manner that is reasonable, is not inconsistent with prior determinations, and results in the full amount of benefits being attributed to participating employers.

The rules in subsection 8305(1) apply, in particular, for the purposes of the association of benefit accruals with employers, as is required by subsection 8302(1). The purpose of these rules is to ensure that all retirement benefits provided to a plan member are taken into account in determining the pension credits and PSPAs of the member. These amounts are defined with reference to specific employers.

ITR
8305(2)

Subsection 8305(2) provides that where the administrator of an RPP does not comply with the requirements of subsection 8305(1), the RPP becomes a revocable plan (and hence its registration may be revoked) and the Minister of National Revenue becomes responsible for making any determinations that were not made in accordance with subsection 8305(1).

Exemption from Certification
ITR
8306(1)

Subsection 147.1(10) of the Act prohibits the payment of additional past service benefits under a defined benefit provision of an RPP in respect of pensionable service after 1989 until a certification of the Minister of National Revenue has been obtained in respect of the benefits. In addition, contributions may not be made to the plan to fund the additional benefits until the application for certification has been made. However, certain benefits may be funded and paid without obtaining a certification, as permitted by regulation.

Subsection 8306(1) provides that a certification is not required in respect of the benefits provided to a particular plan member as a consequence of a past service event where:

> (*a*) each provisional PSPA of the member associated with the past service event is nil;
>
> (*b*) the conditions in subsection 8306(2) or (3) are satisfied;
>
> (*c*) the conditions in subsection 8306(2) or (3) are substantially satisfied and the Minister of National Revenue waives in writing the requirement for certification; or
>
> (*d*) the past service event occurred in 1990, but is deemed by paragraph 8304(3)(*b*) to have occurred immediately after the end of 1990.

Provisional PSPAs will generally be nil where benefits are upgraded in line with increases in wages or prices.

The exemption from the requirement for certification does not eliminate the requirement for the calculation and reporting of PSPAs in respect of the benefits provided as a consequence of the past service event (except that zero PSPAs are not reportable). Thus, the past service benefits will be reflected in reductions in the unused RRSP room of affected plan members. More precisely, subsection 8303(2) provides that, when a past service event occurs for which a certification is not required, the provisional PSPA of an individual associated with the past service event is included in the individual's accumulated PSPA for the year. Section 8402 requires provisional PSPAs that are exempt from certification to be reported to Revenue Canada.

A consequence of the exemption of certain past service benefits from the requirement for certification is that the unused RRSP deduction room, as defined in paragraph 146(1)(*l*) of the Act, of some plan members could become negative. This would not result in the imposition of the penalty tax under Part X.1 of the Act on RRSP over-contributions (unless the member has undeducted RRSP premiums). However, it would mean that the RRSP deduction limit of such a plan member would remain at zero until such time as sufficient new RRSP room became available to offset the negative balance in the member's unused RRSP deduction room.

Conditions for Exemption from Certification

ITR
8306(2)

Subsection 8306(2) sets out conditions with respect to a defined benefit provision of an RPP and a past service event which, if satisfied, result in an exemption from the requirement for certification in respect of benefits provided to plan members as a consequence of the event. In general terms, the exemption applies to upgrades of benefits in larger defined benefit plans (ten or more members) where no more than 25 per cent of active plan members are "specified active members" (that is, high-income employees or persons connected with a participating employer) and where disproportionate benefit increases are not given to specified active plan members. More specifically, the conditions are as follows:

> (*a*) there are more than nine active members under the provision (active members are defined in paragraph 8306(4)(*a*));
>
> (*b*) no more than 25 per cent of the active members under the provision are specified active members (as defined in paragraph 8306(4)(*b*));

(*c*) benefits are increased for all or substantially all of the active members as a result of the past service event;

(*d*) where there is a specified active member of the plan, the percentage increase in aggregate benefits provided to specified active members does not exceed the percentage increase in aggregate benefits provided to other active members; and

(*e*) benefits provided as a result of the past service event to inactive members (including retired members and those with rights to deferred vested benefits) are not more advantageous than those provided to active members.

This exemption from the requirement for certification of past service benefits is designed to make the provision of past service benefits somewhat simpler than it otherwise would be in cases where broad-based upgrades are provided under larger plans. Paragraph 8306(1)(*c*) permits the Minister of National Revenue to waive the requirement for certification in other cases where the conditions set out above are substantially met.

The conditions in subsection 8306(2) are also applicable for the purposes of paragraph 8303(5)(*g*). That paragraph excludes certain flat benefit increases from the determination of PSPA only if the conditions are satisfied.

Idem
ITR
8306(3)

Subsection 8306(3) sets out conditions for an exemption from the requirement for certification in respect of past service benefits provided under a defined benefit provision where the past service event is the establishment of the provision. The availability of the exemption depends on the circumstances of each plan member. The exemption from certification applies in respect of past service benefits provided to a particular plan member where the following conditions are satisfied:

- there are more than 9 active members under the provision (active members are defined in paragraph 8306(4)(*a*));
- no more than 25 per cent of the active members under the provision are specified active members (as defined in paragraph 8306(4)(*b*));
- the plan member is not a specified active member;

- if the plan member is not an active member, the member was not, in any of the preceding five years, connected with an employer who participates in the plan, and the member's total remuneration for each of those years from employers who participate in the plan did not exceed 2½ times the YMPE for the year; and

- the provisional PSPA determined in respect of the past service benefits provided to the member does not exceed 7/2 of the money purchase limit (as defined in subsection 147.1(1) of the Act) for the year in which the defined benefit provision is established.

This exemption is intended to facilitate the establishment of new pension plans that provide a modest level of past service benefits. Where the conditions in subsection 8306(3) are not met, the Minister of National Revenue is permitted, by paragraph 8306(1)(*c*), to waive the requirement for certification if the conditions are substantially satisfied.

Active Member and Specified Active Member
ITR
8306(4)

Subsection 8306(4) defines, for the purposes of section 8306 as it applies with respect to a particular past service event, an active member and a specified active member under a defined benefit provision of an RPP.

An active member is a member who accrues benefits under the provision immediately after the time of the past service event, or who is entitled, immediately after that time, to lifetime retirement benefits under the provision and who may reasonably be expected to accrue additional benefits at a future time.

A specified active member is an active member who is connected with a participating employer at the time of the past service event or who is expected to have total remuneration from participating employers for the calendar year of the event that exceeds 2½ times the YMPE for the year. As defined in subsection 8500(3), a person is connected with an employer if the person owns, directly or indirectly, 10 per cent or more of the shares of the employer or does not deal at arm's length with the employer. Various rules in subsection 8500(3) deem a person to own shares owned by other persons.

Certification in Respect of Past Service Events
ITR
8307

Subsection 147.1(10) of the Act prohibits the payment of additional past service benefits under a defined benefit provision of an RPP in respect of pensionable service after 1989 until the Minister of National Revenue has certified that prescribed conditions are satisfied (unless one of the exceptions set out in subsection 8306(1) is applicable). Section 8307 prescribes the only condition that applies for this purpose. It also defines PSPA withdrawals, which enter into the definition of "net PSPA" in paragraph 146(1)(d.1) and subsection 204.2(1.3) of the Act, and prescribes certain amounts for the purposes of the RRSP rules in section 146 of the Act.

Application for Certification
ITR
8307(1)

Subsection 8307(1) provides that application for a certification of the Minister for the purposes of subsection 147.1(10) of the Act is to be made in prescribed form by the administrator of the RPP to which the certification relates.

Prescribed Condition
ITR
8307(2)

Subsection 8307(2) prescribes the condition that must be satisfied before the Minister can issue a certification for the purposes of subsection 147.1(10) of the Act in respect of benefits provided to a particular member of an RPP as a consequence of a past service event. The prescribed condition is that, at the time of the certification, the sum of all provisional PSPAs of the member in respect of employers associated with the past service event does not exceed the amount determined by the formula

$$\$8,000 + A + B + C - D$$

where

A is the member's unused RRSP deduction room at the end of the year immediately preceding the year of the certification, B is the amount of the member's qualifying withdrawals, as defined in subsections 8307(3) and (4), made for the purpose of the certification,

C is the amount of the member's PSPA withdrawals for the particular year as defined in subsection 8307(5), determined as of the time of the certification, and

D is the total of the member's accumulated PSPAs, as defined in subsection 8303(2), for the year in respect of all employers, determined as of the time of the certification.

In the simplest case, the condition for certification in subsection 8307(2) is satisfied if the provisional PSPA of an individual, associated with a past service event, does not exceed the individual's unused RRSP deduction room at the end of the previous year by more than $8,000. The allowance for a shortfall of RRSP room of $8,000 reflects the fact that the individual's RRSP deduction limit for the year of the certification is not taken into account. In other cases, amounts withdrawn from RRSPs will be added to the unused RRSP deduction room and the $8,000 allowance, and the member's accumulated PSPAs for the year will be taken into consideration, in determining whether a PSPA satisfies the condition for certification. Examples of the application of the condition in subsection 8307(2) are provided following the commentary on subsection 8307(7).

Subsection 8303(2) provides that, when a certification is issued by the Minister of National Revenue in respect of benefits provided to an RPP member as a consequence of a past service event, the provisional PSPA of the member associated with the past service event is included in the member's accumulated PSPA for the year.

Qualifying Withdrawals
ITR
8307(3)

Subsection 8307(3) defines, for the purposes of the description of the amount B in the condition in subsection 8307(2), the amount of an individual's qualifying withdrawals. In general terms, this is the additional room which is created for a provisional PSPA of the individual by the withdrawal of amounts from RRSPs. In effect, an individual is permitted, under the PA system, to exchange RRSP funds for defined benefits provided on a past service basis.

To be considered a qualifying withdrawal, an RRSP withdrawal must be designated by the individual. A withdrawal can be designated for the purposes of a certification only to the extent permissible by subsection 8307(4). A designation is made by filing a prescribed form with the Minister of National Revenue.

The amount of an individual's qualifying withdrawals for the purposes of a certification is equal to the lesser of

- the total eligible withdrawals from RRSPs designated for purposes of the certification, and
- the smallest amount of withdrawals necessary to obtain the certification if the additional $8,000 of room were not included in the formula in subsection 8307(2).

Eligibility of Withdrawn Amount for Designation
ITR
8307(4)

Subsection 8307(4) contains rules limiting the extent to which an amount withdrawn by an individual from an RRSP may be designated for the purposes of a certification of a provisional PSPA. An amount may be designated only if it was withdrawn in the calendar year in which the designation is filed with the Minister or in either of the two immediately preceding calendar years, and only if it was not withdrawn in circumstances that entitle the individual to a deduction under paragraph 60(*l*) of the Act. (Paragraph 60(*l*) of the Act provides, in part, for a deduction in respect of certain amounts received from an RRSP which are contributed or transferred to another RRSP or a registered retirement income fund or used to purchase a qualifying annuity.) In addition, a withdrawal is not eligible to be designated to the extent that the individual has already designated it for the purposes of any other certification, or to the extent that the individual has claimed a deduction in respect of the withdrawal under section 60.2 (withdrawal of additional voluntary contributions transferred to an RRSP) or subsection 146(8.2) (withdrawal of excess RRSP contributions) of the Act.

PSPA Withdrawals
ITR
8307(5)

Subsection 8307(5) defines, for the purposes of the description of C in subsection 8307(2) and the definition of "net PSPA" in paragraph 146(1)(d.1) and subsection 204.2(1.3) of the Act, the amount of an individual's PSPA withdrawals, determined as of a particular time in a year. This amount is the sum of the qualifying withdrawals for the purposes of certifications made in the year and before the particular time. Where no certifications have been made in respect of the individual in a year, the amount of PSPA withdrawals is nil.

Prescribed Withdrawal
ITR
8307(6)

Subsection 146(8.2) of the Act provides a deduction in certain circumstances where an over-contribution to an RRSP is subsequently paid out. As an exception, the deduction is not available in the case of prescribed withdrawals. Subsection 8307(6) prescribes, for the purposes of subsection 146(8.2) of the Act, an amount withdrawn by a taxpayer from an RRSP and designated for the purposes of a certification issued by the Minister of National Revenue relating to the condition in subsection 8307(2). The combined result of subsections 8307(4) and (6) and subsection 146(8.2) of the Act is that an RRSP withdrawal may either be deducted in computing income (where subsection 146(8.2) applies) or designated for the purposes of a certification, but not both.

Prescribed Premium
ITR
8307(7)

Subsection 146(6.1) of the Act provides a deduction for prescribed premiums paid to an RRSP, to the extent that the premiums are not deducted under any of the rollover provisions in paragraphs 60(*j*), (j.1) and (*l*) of the Act. This subsection is intended to allow the recontribution to an RRSP of an amount withdrawn for the purpose of obtaining a certification in respect of past service benefits, where it is later determined that all or part of the amount was withdrawn in error.

Subsection 8307(7) prescribes premiums for the purpose of new subsection 146(6.1) of the Act. A premium is prescribed for a particular taxation year if:

- the taxpayer withdrew an amount in the year from an RRSP and designated the amount in accordance with subparagraph 8307(3)(*a*)(iii) for the purposes of a certification in respect of past service benefits;
- it is later determined that the taxpayer withdrew too large an amount because of a reasonable error, or did not need to withdraw any amount because the Minister has refused to register the pension plan under which the benefits are provided;
- the premium is paid by the taxpayer within 12 months after it is determined that the taxpayer withdrew too large an amount;
- the premium does not exceed the portion of the RRSP withdrawal that was withdrawn in error or was withdrawn unnecessarily;
- the taxpayer files with the Minister of National Revenue, on or before the taxpayer's tax-filing deadline for the year in which the premium was paid (generally April 30th of the following year), a written notice in which the amount is designated as a recontribution of the withdrawn amount; and
- no other amount has been designated as a recontribution of the withdrawal.

The combined effect of subsection 146(6.1) of the Act and subsection 8307(7) is to allow a deduction of the recontributed amount in computing the taxpayer's income for the year in which the RRSP withdrawal was made (rather than for the year in which the amount was recontributed). Subsection 152(6) of the Act requires the Minister to reassess the taxpayer's return to take into account the deduction.

Examples

Several examples of the application of the PSPA certification condition follow.

> **Example 31**: An individual becomes eligible for past service benefits under a supplementary defined benefit RPP of his or her employer in 1993. The provisional PSPA for the benefits is $3,000, and is submitted in 1993 for certification. Assuming that the individual's unused RRSP deduction room at the end of 1992 is nil, that the individual has no qualifying withdrawals and that the individual's accumulated PSPA for 1993 at the time of the certification is zero, the provisional PSPA will be certified because it is less than the $8,000 allowance in the formula in paragraph 8307(2)(*b*). As a result of the certification, the provisional PSPA is included in the individual's accumulated PSPA for 1993 (as determined under subsection 8303(2)) and hence in the individual's PSPA for 1993, and is deducted in determining both the individual's RRSP deduction limit for 1993 and the individual's unused RRSP deduction room at the end of 1993.
>
> **Example 32**: In 1999, a plan providing defined benefits of 1 per cent of final average earnings per year of service is upgraded retroactively to provide benefits at a rate of 1.5 per cent of final average earnings per year of service. For a particular individual, the resulting provisional PSPA is $27,000. Assume that the individual has unused RRSP deduction room of $12,000 as of the end of the previous year and no accumulated PSPA. Also assume that the upgrade does not qualify, under section 8306, for exemption from the certification requirement.
>
> As the provisional PSPA of $27,000 exceeds the sum of $8,000 plus the individual's unused RRSP deduction room of $12,000, the past service benefits cannot be certified unless the individual makes a qualifying RRSP withdrawal of at least $7,000. (The maximum amount which the individual could designate as a qualifying withdrawal would be $15,000, the additional amount of room necessary for the certification condition to be met if the $8,000 allowance were disregarded.)
>
> Assume that the $7,000 withdrawal is made and the benefits are certified. Also assume that no other past service benefits are provided to the individual in the year. Then the provisional PSPA of $27,000 becomes the individual's accumulated PSPA and the individual's PSPA for the year, the qualifying withdrawal of $7,000 becomes the individual's PSPA withdrawals for the year, as defined in subsection 8307(5), and the

resulting "net PSPA" for the year (as defined in paragraph 146(1)(d.1) of the Act) is $20,000 (= $27,000 - $7,000).

Example 33: On changing employment, an individual seeks to exchange pension benefits under one defined benefit plan (plan A) for benefits under another defined benefit plan (plan B). Plan A provides benefits of 1.8 per cent of final average earnings per year of service, integrated with CPP/QPP, while plan B provides benefits of 2.0 per cent of final average earnings per year of service, also integrated with CPP/QPP. The individual has eight years of post-1989 service under plan A and wishes to obtain credits for the same service under plan B. Assume that the sum of pension credits for the eight years of service is $44,000 under plan A and $54,000 under plan B. Assume that the individual is entitled to a termination benefit of $30,000 from plan A and is required to contribute $38,000 to obtain the desired pension benefits under plan B. Finally, assume that the individual has unused RRSP deduction room of $6,000 at the end of the previous year and no accumulated PSPA.

If it is arranged that, after a certification is issued in respect of the past service benefits, the individual will transfer the $30,000 termination benefit to plan B rather than to an RRSP or other money purchase vehicle, and if the PA reported in the individual's year of termination from plan A was not reduced by subsection 8301(8), the provisional PSPA determined in accordance with formula amount in paragraph subsection 8304(5) will be $10,000. The condition for a certification in respect of the benefits will be met since this provisional PSPA is exceeded by the formula amount in paragraph 8307(2)(*b*) which is $14,000 (= $8,000 allowance + $6,000 of unused RRSP deduction room).

Following the certification in respect of the benefits, the provisional PSPA becomes the accumulated PSPA. The net result is to decrease the individual's unused RRSP deduction room at the end of the year of the certification by $10,000. This drop of $10,000 reflects the gain in the value of benefits as measured by the difference in pension credits under plan A and plan B.

The additional contribution of $8,000 that the individual is required to make to plan B (over and above the transfer of $30,000) is deductible in the year it is made, under paragraph 147.2(4)(*a*) of the Act.

Special Rules
ITR
8308

Section 8308 contains rules relating to the determination of pension credits, PAs and PSPAs in special situations, as well as certain other special rules.

Benefits Provided Before Registration
ITR
8308(1)

Where benefits under a defined benefit provision of a pension plan became provided before the effective date of the registration of the plan, subsection 8308(1) deems the benefits to have become provided as a consequence of an event occurring on that date. This ensures that the benefits will be taken into account in determining RRSP room and that the rules requiring the certification of past service benefits will be applicable with respect to those benefits.

Prescribed Amount for Connected Persons
ITR
8308(2)

Subsection 8308(2) prescribes a reduction in the RRSP limit of an individual in certain circumstances. In general terms, the reduction applies the first time after 1990 that an individual who is connected with an employer joins an RPP. It also applies where a connected person who was a member of a defined benefit RPP at the beginning of 1991 but who did not accrue benefits during 1990 recommences accruing benefits. The reduction is intended to prevent connected persons from doubling-up on their entitlement to tax assistance for retirement saving.

More specifically, subsection 8308(2) prescribes an amount in respect of an individual for a year after 1990 if:

- at any time in the year, the individual joins an RPP or commences to accrue benefits under a defined benefit provision of an RPP following a period in which such benefits did not accrue;
- the individual is connected at that time with an employer who participates in the RPP for the benefit of the individual, or was so connected at any time after 1989;

- the individual did not have a positive PA for 1990; and

- the subsection has not previously prescribed an amount in respect of the individual.

The prescribed amount is the lesser of $11,500 and 18 per cent of the individual's earned income for 1990 (earned income is defined in paragraph 146(1)(*c*) of the Act). This amount is deducted in determining the amount B in the formulas in paragraphs 146(1)(g.1) and (*l*) of the Act (definitions of "RRSP deduction limit" and "unused RRSP deduction room") and subsection 204.2(1.1) of the Act (definition of "cumulative excess amount in respect of RRSPs"). Amount B is the additional RRSP room that becomes available each year.

As defined in subsection 8500(3), a person is connected with an employer if the person owns, directly or indirectly, 10 per cent or more of the shares of the employer or does not deal at arm's length with the employer. Various rules in subsection 8500(3) deem a person to own shares owned by other persons.

Remuneration for Prior Years
ITR
8308(3)

Subsection 8308(3) sets out special rules that apply where an individual (i) receives remuneration in a particular year (a bonus or back pay, for example) that is treated for the purpose of determining retirement benefits under a defined benefit provision of an RPP as if it were received in a prior year, and (ii) accrues no benefits in respect of the particular year. The effect of the rules is to ensure that the remuneration is reflected in a pension credit, to the extent that it would have been so reflected had it been received in the prior year. Subsection 8308(3) does not apply where such remuneration is received in a year in respect of which benefits accrue to the individual since in that case the remuneration is required, by paragraph 8302(3)(*f*), to be treated for PA purposes as if it were remuneration for services rendered in the year.

Subsection 8308(3) provides that:

> (*a*) the remuneration that is received in the particular year but treated under the RPP as received in a prior year is deemed to have been received in that prior year for the purpose of determining, as of the time the remuneration is received and any subsequent time, a redetermined benefit entitlement of the individual; and

> (*b*) the pension credit of the individual for the particular year under the provision in respect of an employer is the aggregate of (i) the amount that would otherwise be the individual's pension credit, and (ii) the provisional PSPA of the individual in respect of the employer associated with the payment of the remuneration determined as if the payment of the remuneration were a past service event.

Generally, the determination of a pension credit pursuant to subsection 8308(3) will be relatively straightforward. However, where this is not so, the Minister of National Revenue may permit a reasonable estimate to be made.

In some cases, the payment of the remuneration may not result in a pension credit. For example, the individual might have had sufficient pensionable earnings before taking the remuneration into account to have accrued the maximum pension in the prior year. Alternatively, the individual might have attained, before the prior year, the maximum period of service upon which benefits are provided under the RPP. However, there are also cases where the payment of the remuneration results in a pension credit even though no additional benefits are provided. For example, where the payment of the remuneration does not alter the level of the best average earnings in a best average earnings plan, it will nonetheless generally result in a provisional PSPA (determined as if there were a past service event) that is greater than zero.

> **Example 34**: At the end of a calendar year, an individual retires and commences to receive a pension from an RPP which has a benefit formula of 1.3 per cent of final average earnings up to the YMPE and 2 per cent of final average earnings in excess of the YMPE per year of service. The individual earned $50,000 in the year before retirement and receives a bonus amount of $4,000 after retirement which is treated under the plan as pensionable earnings in the prior year. Result: under subsection 8308(3), the individual has a pension credit in the year of receipt of the bonus that is equal to the provisional PSPA associated with the payment of the additional remuneration. This amount is determined as the difference between a pension credit based on remuneration of $54,000 and one based on remuneration of $50,000. Thus, the pension credit is:
>
> $$.02 \times \$4,000 \times 9 = \$720.$$

Period of Reduced Services -- Retroactive Benefits
ITR
8308(4)

Subsection 8308(4) sets out rules for the redetermination of PAs and the determination of PSPAs where benefits (referred to as "retroactive benefits") are provided on a retroactive basis in respect of a period of reduced services of an individual under a defined benefit provision of an RPP. (A "period of reduced services" is defined in subsection 8300(1) to be an eligible period of reduced pay or temporary absence or a period of disability. These periods are defined in subsection 8500(1). For more information, reference may be made to the commentary on those definitions.)

In the absence of the rules in subsection 8308(4), the provision of such retroactive benefits would be a past service event giving rise to a PSPA. The effect of the rules is to provide for increased PAs, rather than a PSPA, in respect of retroactive benefits. Providing for higher PAs rather than a PSPA means that the retroactive benefits are subject to the indirect limits imposed by virtue of the PA limits in subsections 147.1(8) and (9) of the Act, rather than the limit imposed by the need to have sufficient unused RRSP deduction room in order to have past service benefits certified. Thus, the benefits may be provided even though the plan member has received little or no remuneration during the period of reduced services and, as a result, has generated little if any RRSP room. In this regard, the PA limits are based on an individual's "compensation", which is defined (in subsection 147.1(1) of the Act) to include prescribed amounts. Section 8507 of the Regulations prescribes amounts in respect of periods of reduced services, and limits the amounts that may be prescribed. For further discussion of prescribed compensation, reference may be made to the commentary on section 8507.

The redetermination of PAs under subsection 8308(4) applies only where retroactive benefits become provided on or before April 30th of the year immediately following the calendar year in which the complete period of reduced services ends. (As defined in subsection 8300(1), a complete period of reduced services is a period of reduced services that is not part of a longer period of reduced services.) Thus, where a period of reduced services spans two or more years, the decision as to whether to provide benefits in respect of all or any portion of the period can be deferred until after the end of the period.

In the simplest case where a complete period of reduced services falls entirely within a particular calendar year, there are three possibilities:

- where benefits in respect of the period become provided during the particular year, they are reflected in the individual's PA for the year without the application of subsection 8308(4);

- where the benefits become provided after the end of the particular year but on or before April 30th of the following year, subsection 8308(4) applies to redetermine the individual's PA for the particular year and ensure that the retroactive benefits do not result in a provisional PSPA; and

- where the benefits become provided after April 30th of the following year, they result in a provisional PSPA which is subject to the normal certification process.

Where subsection 8308(4) applies, the redetermined PA of the individual in respect of the employer for each year before the particular year in which the retroactive benefits become provided is deemed to be the sum of

> (i) the amount that would otherwise be the individual's PA for the year in respect of the employer, and
>
> (ii) the portion of the provisional PSPA of the individual in respect of the employer associated with the retroactive benefits that is attributable to the retroactive benefits provided in respect of the year.

Also, the provisional PSPA of the individual in respect of the employer associated with the retroactive benefits is deemed (except for the purpose of subsection 8308(4)) to be the portion, if any, of the PSPA that does not relate to the provision of those retroactive benefits. In the normal case where the only past service benefits which become provided are the retroactive benefits, the provisional PSPA will be nil.

The rules of subsection 8308(4) do not apply to specified multi-employer plans.

> **Example 35**: An individual who participates in a 1.2 per cent final average earnings RPP and has a full-time earnings level of $36,000 takes four months of leave without pay in a year. After the year, but before the end of April of the following year, it is decided to provide the individual with benefits in respect of the period of leave.

Result: The individual's PA for the year, as initially determined, is:

PA = (9 x .012 x $36,000 x 2/3) - $1,000 = $1,592.

Subsection 8308(4) requires that this PA be redetermined, as a result of the provision of retroactive benefits, to be the sum of the above PA plus the provisional PSPA that would be associated with the provision of benefits in respect of the four months of leave. The total of these two amounts is the same as the PA that would be determined based on a full year of service. Thus, the redetermined PA is computed as follows:

Redetermined PA = (9 x .012 x $36,000) - $1,000 = $2,888.

This same PA would have been determined had the four month period of leave been credited during the year and thus taken into account in computing the PA initially reported in respect of the year.

Subsection 8401(6) requires that, when a PA is redetermined as in the above example, the redetermined PA is to be reported to the Minister of National Revenue within 60 days of the date that the retroactive benefits become provided.

Period of Reduced Services -- Retroactive Contributions
ITR
8308(5)

Subsection 8308(5) sets out rules for the redetermination of PAs where a contribution (referred to as a "retroactive contribution") is made after the end of a particular year under a money purchase provision of an RPP in respect of a period of reduced services in the particular year. (A "period of reduced services" is defined in subsection 8300(1) to be an eligible period of reduced pay or temporary absence or a period of disability. These periods are defined in subsection 8500(1). For more information, reference may be made to the commentary on those definitions.)

In the absence of the rules in subsection 8308(5), such a retroactive contribution would be included in the PA for the year in which it is paid (except where the contribution is paid by the end of February of the year immediately following the particular year). The effect of the rules is to increase the PA for the particular year in which the period of reduced services occurs and to correspondingly reduce the PA for the subsequent year in which the contribution is made. The retroactive contribution is subject to the indirect limits imposed by virtue of the PA limits in subsections 147.1(8) and (9). In this regard, the PA limits are based on an individual's "compensation", which is defined (in subsection 147.1(1) of the Act) to include prescribed amounts. Section 8507 of the Regulations prescribes amounts in respect of periods of reduced services, and limits the amounts that may be prescribed. For further discussion of prescribed compensation, reference may be made to the commentary on section 8507.

Subsection 8308(5) applies to a retroactive money purchase contribution only where the contribution is made on or before April 30th of the year immediately following the calendar year in which the complete period of reduced services ends. (As defined in subsection 8300(1), a complete period of reduced services is a period of reduced services that is not part of a longer period of reduced services.) However, where an individual enters into a written commitment with the employer or plan administrator to make a money purchase contribution, and the commitment is made on or before April 30th of the year following the calendar year in which the complete period of reduced services ends, subsection 8308(6) provides that subsection 8308(5) shall apply as if the contribution had been made at the time the commitment was made.

Where subsection 8308(5) applies, the redetermined PA of an individual for each particular year that includes a period of reduced services in respect of which retroactive contributions are made is deemed to be the amount that would have been the individual's PA had the retroactive contributions been made at the end of the particular year. Also, for the purpose of determining the individual's PA for the year in which the contributions are made, the contributions are deemed not to have been made in that year.

> **Example 36:** Under the terms of a money purchase plan, an individual, upon return from a leave of absence for two calendar years, is entitled to employer contributions of $3,000 per year if the individual agrees to make contributions of equal amounts. Where the contributions are made by the end of April following the second year of leave, PA determination is as follows:
>
> - a redetermined PA of $6,000 is calculated for each of the two years of leave (assuming the PAs initially determined were nil), and
>
> - the retroactive contribution of $12,000 is excluded from the PA determined for the year in which the contribution is made.

Subsection 8401(6) requires that the redetermined PAs reflecting a retroactive contribution be reported to the Minister of National Revenue within 60 days of the date of the retroactive contribution (or where subsection 8308(6) applies, within 60 days of the date on which a commitment is entered into to make the retroactive contribution).

It should be noted that paragraph 8502(*b*) restricts the contributions that may be made to RPPs. For a retroactive contribution to meet the requirements of paragraph 8502(*b*), the terms of the plan must provide for such contributions to be made.

Commitment to Make Retroactive Contributions
ITR
8308(6)

Subsection 8308(6) extends the rules in subsection 8308(5) to contributions to a money purchase provision of an RPP in respect of a period of reduced services of an individual where the contributions are not made within the period set out in subsection 8308(5), but the individual makes a written commitment to the plan administrator or a participating employer before the end of the period to make the contributions. Subsection 8308(6) provides that the contributions are to be treated as if they were made when the individual enters into the commitment. Actual contributions made pursuant to the commitment are to be ignored for PA purposes. Under subsection 8308(5), such contributions are reflected in the individual's PA(s) for the calendar year(s) in which the period of reduced services occurs rather than in the individual's PA for the year in which the contributions are considered to have been made.

Subsection 8308(6) also applies with respect to employer contributions that are conditional upon the individual making the contributions that the individual has committed to pay.

Loaned Employee
ITR
8308(7)

Subsection 8308(7) contains special rules that apply where service is credited under the RPP of one employer (the "lending employer") to an employee who is on loan to another employer (the "borrowing employer") from whom the employee receives remuneration. The effect of the rules is to treat the borrowing employer as an employer who participates in the plan. A PA of the employee must be determined in respect of the borrowing employer, and the limits that apply to this PA are based on remuneration from the borrowing employer. Such remuneration is also taken into account for the purpose of the maximum pension rule. In the absence of the special rules set out in subsection 8308(7), all defined benefit accruals and money purchase contributions during the loan period would be reflected in the employee's PA in respect of the lending employer.

Subsection 8308(7) applies where: (*a*) an employee is on loan to an employer who does not participate in the plan of the lending employer but who pays remuneration to the employee, and (*b*) the employee accrues benefits during the period of the loan under the plan of the lending employer (or the employee's money purchase account in the plan is credited with contributions made by the lending employer). Under these circumstances, the subsection provides that the employee's pension credits under the plan are to be determined as if the borrowing employer participated in the plan. Specifically, paragraph 8308(7)(*c*) provides that the borrowing employer is a prescribed employer for the purpose of the definition "participating employer" in subsection 147.1(1) of the Act; paragraph 8308(7)(*d*) provides that the employee's benefit accrual in respect of a year under a defined benefit provision of the plan is to be attributed to employment with the lending and borrowing employers in proportion to the remuneration received by the employee in the year from each employer; and paragraph 8308(7)(*e*) provides that money purchase contributions made to the plan by the lending employer, to the extent that they may reasonably be considered to be in respect of remuneration from the borrowing employer, are to be considered as contributions made by the borrowing employer. The effect of these provisions is that an amount that would otherwise be a pension credit of the employee in respect of the lending employer becomes, in whole or in part, a pension credit in respect of the borrowing employer.

Where these rules apply, an employee will have a PA in respect of the borrowing employer. Pursuant to rules in section 8401, this amount will have to be reported by the borrowing employer. Co-ordination between the lending and borrowing employers will be needed to establish the PA to be reported by each employer. The PA in respect of the borrowing employer will be subject to the PA limits in subsections 147.1(8) and (9) of the Act, which will be based on the employee's compensation from the borrowing employer.

Consider as an example an employee who becomes a paid union official part way through a year, and who therefore takes an unpaid leave of absence from regular employment. The employee's remuneration for the year is $10,000 from the lending employer and $30,000 from the union. The employee accrues benefits under a defined benefit provision of an RPP of the lending employer, and the benefit accrual of the employee under the provision in respect of the year is $480.

In the absence of subsection 8308(7), the individual's PA in respect of the lending employer would be $3,320 (= 9 x $480 - $1,000). However, subsection 8308(7) provides for the union to be considered as an employer that participates in the plan and for the benefit accrual to be attributed to employment with the two employers based on the employee's remuneration from each of them. Thus, the employee has benefit entitlements of $120 (= $480 x ($10,000 ÷ $40,000)) in respect of the lending employer and $360 (= $480 x ($30,000 ÷ $40,000)) in respect of the union. Assuming a parallel proration of the $1,000 offset, the employee's PAs are $830 (= $120 x 9 - ($10,000 ÷ $40,000 x $1,000)) and $2,490 (= $360 x 9 - ($30,000 ÷ $40,000 x $1,000)) in respect of the two employers.

Section 8507 contains rules that prescribe additional amounts to be included in "compensation" so that the PA limits are satisfied where benefits are provided in respect of leaves of absence and other periods when an individual receives no remuneration or a reduced amount of remuneration. The effect of these rules is to permit benefits to continue to accrue as if the individual's remuneration had continued at its regular level. There is a limit (of five years of full-time equivalent compensation) on the cumulative amount of compensation that can be prescribed by section 8507.

Where an employee continues to accrue benefits during a period of loan, section 8507 will apply to prescribe amounts to be included in the employee's compensation from the lending employer. Because of the split of the individual's pension credits between the lending and borrowing employers, this additional compensation will generally not be required to ensure that the PA limits are satisfied. For this reason, a rule is included in subsection 8507(5) to exclude such prescribed compensation from using up the five-year limit.

Successor Plan
ITR
8308(8)

Subsection 8308(8) sets out a special rule that applies where an individual's defined benefits under an RPP of one employer (the "former employer") are replaced by identical benefits under an RPP of another employer (the "successor employer"). Under this rule, the individual's PAs in respect of the two employers for the year in which the benefits are replaced are deemed to be the amounts that they would be if all the benefits in respect of the individual under the plan of the former employer had been attributable to employment with the successor employer rather than the former employer. The result is the same as if the individual had always been employed by the successor employer throughout the year. Generally, this means that the former employer will not have to report a PA, while the PA determined by the successor employer will be based on the full year's benefits.

This rule applies only where the Minister of National Revenue consents, in writing, to its application. It is intended, in particular, to facilitate the reporting of PAs in the year in which an RPP is split into two plans consequent upon the sale by an employer of a division.

Statutory Plans
ITR
8308(9)

Subsection 8308(9) contains special rules that apply with respect to two pension plans which are not currently registered: the plans established by the *Judges Act* and the *Lieutenant Governors Superannuation Act*. Under this subsection,

> (*a*) the pension plans established by those Acts are deemed, for the purposes of Part LXXXIII of the Regulations, to be RPPs, and
>
> (*b*) the pension credit of an individual for a year under the relevant plan is the amount by which 18 per cent of the individual's salary for the year as a judge or lieutenant governor (or, if less, the money purchase limit for the year, as defined in subsection 147.1(1) of the Act) exceeds $1,000.

Plan Under Judges Act
ITR
8308(10)

Subsection 8308(10) provides, for greater certainty, that the provisions of the *Judges Act* relating to judges' annuities are considered, for the purposes of Part LXXXIII of the Regulations, to be a defined benefit provision of a pension plan.

Special Downsizing Benefits
ITR
8308(11)

Subsection 8505(3) permits additional lifetime retirement benefits to be provided to an individual under a defined benefit provision of an RPP where the individual terminates employment as a result of a downsizing program and certain other conditions are satisfied. Subsection 8308(11) clarifies that the pension credits and provisional PSPAs of the individual are to be determined without regard to those additional benefits.

Minister's Powers
ITR
8309

Section 8309 gives the Minister of National Revenue certain powers with respect to the determination of amounts under Part LXXXIII of the Regulations.

ITR
8309(1)

Subsection 8309(1) provides that, where more than one method of determination of an amount under Part LXXXIII complies with the rules in the Part, a method acceptable to the Minister is to be used. This rule is included in recognition of the fact that it is not possible to set out rules for determining PAs and PSPAs that cover every possible circumstance.

ITR
8309(2)

Subsection 8309(2) provides that, should the rules in Part LXXXIII require the determination of an amount in a manner that is not appropriate having regard to the provisions of the Part read as a whole and the purposes for which the amount is determined, the Minister may permit or require the amount to be determined in a manner that, in the Minister's view, is appropriate. This rule recognizes that there may be special circumstances where the rules set out in Part LXXXIII lead to an inappropriate calculation of amounts.

ITR
8309(3)

Subsection 8309(3) provides that where, pursuant to subsection 8309(2), the Minister gives permission or imposes a requirement, the permission or requirement must be in writing to be effective.

Rounding of Amounts
ITR
8310

Section 8310 provides that pension credits and provisional PSPAs are to be rounded to the nearest dollar.

Registered Plans -- Reporting and Provision of Information
ITR
PART LXXXIV

Part LXXXIV of the Regulations requires the filing of information returns that report pension adjustments (PAs) and provisional past service pension adjustments (PSPAs), the filing of annual information returns and actuarial valuations in respect of registered pension plans (RPPs) and the filing of certain other returns. It also requires the exchange of information between plan administrators and participating employers for the purposes of completing information returns and calculating provisional PSPAs, and requires the reporting of PAs and PSPAs to employees. Generally, the first date for the filing of information returns is February 28, 1991.

Definitions
ITR
8400

Subsection 8400(1) provides that all words and expressions used in Part LXXXIV that are defined in subsection 8300(1) or 8500(1) or in subsection 147.1(1) of the Act have the meanings assigned therein.

Subsection 8400(2) provides that any references in Part LXXXIV to pension credits mean pension credits as calculated pursuant to Part LXXXIII. The main rules for calculating pension credits are in section 8301.

Subsection 8400(3) provides that, where the administrator of a pension plan is not a person, the administrator shall, for the purposes of Part LXXXIV, be considered to be a person. This rule is necessary since a number of provisions of Part LXXXIV make reference to a person.

Pension Adjustment
ITR
8401(1)

Where an individual's PA for a year in respect of an employer is greater than nil, subsection 8401(1) requires the employer to file with the Minister of National Revenue an information return in respect of the individual, reporting the PA. The PA of an individual for a year in respect of an employer will be greater than zero if defined benefits accrue to the individual, or money purchase contributions are made by or on behalf of the individual, under an RPP in respect of the year and employment with the employer or if contributions are made on behalf of the individual to a DPSP in respect of the year and employment with the employer. The PA will also be non-zero where forfeitures are reallocated to the individual under a money purchase RPP or a DPSP, where a portion of a money purchase surplus is allocated to the individual or where the employer makes contributions to an RPP that is a specified multi-employer plan (as defined in section 8510 of the Regulations) based on hours worked by the individual. PAs for years before 1990 are defined to be nil. For a detailed discussion of the determination of PA, reference may be made to the commentary on Part LXXXIII of the Regulations.

This reporting requirement does not apply to any portion of a PA required by subsection 8401(2) or (3) to be reported by the administrator of a multi-employer RPP.

Subsection 8401(1) requires an information return reporting a PA for a year to be filed by the end of February of the following year. As PAs are defined to be nil for years before 1990, the first information returns under subsection 8401(1) must be filed by employers on or before February 28, 1991 in respect of PAs for 1990.

ITR
8401(2)

Subsection 8401(2) provides an exception to the requirement in subsection 8401(1) that PAs be reported by employers. Subsection 8401(2) requires the administrator of a specified multi-employer RPP to file with the Minister of National Revenue an information return in respect of each member of the plan who makes contributions to the plan in a year where the contributions are not remitted to the plan by a participating employer. The return in respect of such a member is to contain the total of the member's PAs for the year in respect of all participating employers of the plan, to the extent that the PAs arise as a result of such member contributions. The return reporting PAs for a year must be filed by the end of February of the following year. This subsection would apply, for example, where an individual makes contributions directly to the administrator of a specified multi-employer plan in order to acquire additional benefits.

A "specified multi-employer plan" is defined in subsections 8510(2) and (3) of the Regulations. In general terms, a specified multi-employer plan is a pension plan in which two or more independent employers participate pursuant to a collective bargaining agreement and the administrator of which is a board of trustees or similar body that is not controlled by representatives of the employers.

Administrators must file the first information returns under subsection 8401(2) on or before February 28, 1991 with respect to member contributions to specified multi-employer plans in 1990.

ITR
8401(3)

Subsection 8401(3) provides that where, under subsection (4), a portion of a pension credit of an individual for a calendar year is reportable by the administrator of an RPP, the administrator must report the amount on or before the last day of February in the following calendar year. The amount is to be reported by filing with the Minister of National Revenue a return in prescribed form.

Administrators must file the first information returns under subsection 8401(3) on or before February 28, 1991 with respect to pension credits for 1990.

ITR
8401(4)

Subsection 8401(4) sets out circumstances in which the responsibility for PA reporting is placed on the administrator of an RPP rather than on participating employers. The subsection applies with respect to the reporting of such portion of a pension credit of a member of a multi-employer plan as is attributable to defined benefits provided in respect of a period of reduced services of the member. The application of the subsection is limited to cases where the plan administrator has applied for such a reporting arrangement and the Minister has, in writing, consented to it. Subsection 8401(4) does not apply with respect to multi-employer plans that are specified multi-employer plans.

A multi-employer plan, as defined in subsection 8500(1) of the Regulations, is a plan in which no more than 95 per cent of the active members are employed by one employer or a related group of employers. A period of reduced services, as defined in subsection 8300(1), is an eligible period of reduced pay, an eligible period of temporary absence or a period of disability. Eligible periods, as well as "period of disability", are defined in subsection 8500(1).

This provision for administrator reporting recognizes that, in some multi-employer RPPs, members deal directly with the plan administrator with respect to their benefits in respect of periods of reduced services or disability.

ITR
8401(5)

Subsection 8401(5) eliminates any requirement for the reporting of a PA of an individual for the year in which the individual dies.

ITR
8401(6)

In certain circumstances where defined benefits become provided to a pension plan member, or money purchase contributions are made by or on behalf of a member (or the member enters into a commitment to make contributions), after the end of a year but in respect of a period of reduced services in the year, paragraph 8308(4)(*d*) or (5)(*c*) of the Regulations (whichever applies) requires that the member's PA be redetermined to reflect the additional benefits or contributions. Further details are provided in the commentary on subsections 8308(4) and (5).

Where a PA is redetermined in such circumstances, subsection 8401(6) requires that the person responsible for reporting the PA report the redetermined PA to the Minister in prescribed form within 60 days after the day that the defined benefits become provided or the money purchase contributions are made (or, if there is a commitment to make money purchase contributions, the day that the commitment is entered into).

For example, where a plan member takes a leave of absence in a year and a decision is not made until April 30th of the following year to provide the member with benefits in respect of the period of leave, the redetermined PA must be reported by June 29th of that following year. (On the other hand, if it were known at the end of the year that the benefits were to be provided, they would be included in determining the PA which is reportable by the end of the following February.)

Past Service Pension Adjustment
ITR
8402

Where an individual is credited with benefits under an RPP on a past service basis in respect of post-1989 service, a PSPA may arise. A PSPA is, in general terms, the additional PAs that would have been determined for the prior years if the plan had provided for the additional benefits at the time each PA was first determined. The determination of PSPA is described in detail in the commentary on sections 8303 and 8304 of the Regulations.

Before such past service benefits can be paid to an individual, subsection 147.1(10) of the Act may require that a certification from the Minister of National Revenue be obtained in respect thereof. Certifications are discussed in the commentary on sections 8306 and 8307 of the Regulations. When applying for such a certification, the plan administrator must submit to the Minister a provisional PSPA in respect of the proposed benefits.

Section 8306 provides an exemption from the certification requirement where certain conditions are satisfied. Where an individual's provisional PSPA in respect of an employer is greater than nil and the exemption applies, section 8402 requires the administrator of the RPP under which the past service benefits are credited to report the PSPA to the Minister in prescribed form within 60 days after the day on which the past service event as a consequence of which the benefits are provided occurs.

Where section 8402 would otherwise require a return to be filed before the day that is 60 days after the date on which these Regulations are published in the *Canada Gazette*, the return need not be filed until that day.

Connected Persons
ITR
8403

Section 8403 applies where an individual joins an RPP after 1990. Each employer who participates in the plan on the individual's behalf and with whom the individual is or was connected (as defined in subsection 8500(3)) is required to file with Revenue Canada a prescribed form containing prescribed information in respect of the individual. The form must be filed within 60 days after the individual joins the plan.

Section 8403 also requires a prescribed form to be filed if, after 1990, defined benefits commence to accrue to an individual under an RPP following a period in which benefits did not accrue on a current basis. Each employer with whom the individual is or was connected must file a form within 60 days after benefits commence to accrue.

An employer who has filed one form under section 8403 in respect of an individual is not required to make any further filings in respect of the individual.

The section 8403 filing is required in connection with subsection 8308(2), which prescribes a reduction in an individual's RRSP room in certain circumstances. For further details, reference may be made to the commentary on subsection 8308(2).

Where section 8403 would otherwise require a prescribed form to be filed before the day that is 60 days after the date on which these Regulations are published in the *Canada Gazette*, the form need not be filed until that day.

Reporting to Individuals
ITR
8404(1)

Subsection 8404(1) provides that, where a person is required to file with the Minister of National Revenue an information return relating to a PA of an individual, the person filing the return must, by the date the return is required to be filed with the Minister, forward to the individual two copies of the portion of the return relating to the individual.

ITR
8404(2)

Subsection 8404(2) provides that, where a person is required by section 8402 (PSPA returns) or 8403 (returns in respect of connected persons) to file with the Minister of National Revenue an information return in respect of an individual, the person must forward to the individual, by the date the return is required to be filed with the Minister, one copy of the portion of the return relating to the individual.

Where subsection 8404(2) would otherwise require a copy of a return to be forwarded before the day that is 60 days after the date on which these Regulations are published in the *Canada Gazette*, the copy need not be forwarded until that day.

ITR
8404(3)

Subsection 8307(1) requires that an application for the certification of the Minister of National Revenue in respect of a past service event be made in prescribed form. Subsection 8404(3) provides that, where a certification is obtained from the Minister, the person obtaining the certification is required to forward to the individual to whom the certification relates one copy of the form as returned by the Minister. The copy must be forwarded to the individual within 60 days of the return of the form.

Where subsection 8404(3) would otherwise require a copy of a form to be forwarded before the day that is 60 days after the date on which these Regulation are published in the *Canada Gazette*, the copy need not be forwarded until that day.

ITR
8404(4)

Subsection 8404(4) provides that a copy of a return or form required to be forwarded to an individual under any of subsections 8404(1) to (3) must be sent to the individual at his or her last known address or be delivered to the individual in person.

Discontinuance of Business
ITR
8405

Section 8405 provides that subsection 205(2) and section 206 of the Regulations are applicable, with such modifications as the circumstances require, in respect of returns required to be filed under this Part. Subsection 205(2) requires that returns be filed within 30 days of the discontinuance of a business. Subsection 206(1) requires the legal representative of a person who has died to file required returns within 90 days of the date of death. Subsection 206(2) places responsibility for filing returns on all receivers, trustees in bankruptcy and others who control the property of a person who has not filed a return as required.

The earliest date that returns are required to be filed by section 8405 is February 28, 1991.

Provision of Information
ITR
8406(1)

Where a person required to report a PA needs information from a second person in order to determine the amount to be reported or to otherwise complete the information return, subsection 8406(1) requires the second person to provide the information on receipt of a written request from the first person. Most often this subsection will require an administrator of an RPP to provide information to an employer, or an employer to provide information to a plan administrator. Where the information is required for the purposes of a PA report to be filed in the year in which the request is received, it must be provided within 30 days after receipt of the request. Otherwise, it need not be provided until January 31 of the following year.

ITR
8406(2)

Where the administrator of an RPP requires information from a person (generally an employer or former employer) in order to calculate a provisional PSPA of an individual, subsection 8406(2) requires the person to provide the information within 30 days after receiving a written request from the administrator.

ITR
8406(3)

Where the administrator of an RPP needs information from a person in order to complete an information return required to be filed by section 8409 (annual information return or wind-up information return), subsection 8406(3) requires the person to provide the information within 30 days after receiving a written request from the administrator.

By virtue of subsection 221(2) of the Act, subsections 8406(1), (2) and (3) are applicable from the date that they are published in the *Canada Gazette*.

Qualifying Withdrawals
ITR
8407

If an individual does not have sufficient unused RRSP room to enable the Minister to issue a certification for the purposes of subsection 147.1(10) of the Act in respect of past service benefits, additional room can be created by the withdrawal of amounts from RRSPs. (Withdrawals in the preceding two calendar years may also be used to create additional room.) For further details regarding withdrawals, reference may be made to the commentary on subsections 8307(3) and (4).

A withdrawal is taken into account for the purposes of a certification only if the individual designates the withdrawal by filing with Revenue Canada a prescribed form containing prescribed information. A portion of the prescribed form may have to be completed by the issuer of the RRSP from which the amount was withdrawn. Accordingly, section 8407 requires an issuer who is supplied by an individual with a copy of the prescribed form to complete the relevant parts of the form in respect of a withdrawal and to return the form to the individual within 30 days. Section 8407 does not apply, however, if the issuer has already provided the individual, or provides the individual within 30 days, with two copies of the information return (form T4RSP) required by subsection 214(1) in respect of the withdrawal. By virtue of subsection 221(2) of the Act, section 8407 is applicable from the date that it is published in the *Canada Gazette*.

Requirement to Provide Information to Minister

ITR
8408(1)

Subsection 8408(1) gives authority to the Minister of National Revenue to require, by notice served personally or by registered or certified mail, that any person provide to the Minister information:

- relating to the determination of PAs, PSPAs and other amounts under Part LXXXIII of the Regulations;
- relevant to a claim that past service benefits are exempt from the requirement for certification imposed by subsection 147.1(10) of the Act; or
- that enables the Minister to determine whether the registration of an RPP may be revoked.

The information must be provided within whatever reasonable time is specified in the notice.

ITR
8408(2)

Subsection 8408(2) provides that where a person fails to give information to the Minister pursuant to a requirement under subsection 8408(1), each RPP and DPSP to which the information relates becomes a revocable plan as of the date on or before which the information was required to be provided.

By virtue of subsection 221(2) of the Act, subsections 8408(1) and (2) are applicable from the date that they are published in the *Canada Gazette*.

Annual Information Return
ITR
8409(1)

Subsection 8409(1) requires the administrator of an RPP to file with the Minister of National Revenue, by June 30th of each year, a general information return in respect of the plan. It is expected that this return will include information such as the method used to determine PAs and whether or not any plan members are connected with participating employers. The return will also include a certification that the plan complies with, and is being administered in accordance with, the registration requirements. The first return required to be filed under subsection 8409(1) is with respect to the 1990 calendar year.

Where subsection 8409(1) would otherwise require an information return to be filed before the day that is 60 days after the date on which these Regulations are published in the *Canada Gazette*, the return need not be filed until that day.

ITR
8409(2)

Where an RPP has been terminated and a final distribution of property held in connection with the plan is made within the first four months of a year, subsection 8409(2) requires that the subsection 8409(1) information return for the preceding year be filed within 60 days of that final distribution. However, the initial filing date is postponed to 60 days after the date on which these Regulations are published in the *Canada Gazette*.

ITR
8409(3)

Where an RPP has been terminated and a final distribution made of property held in connection with the plan, subsection 8409(3) requires the administrator of the plan to file with the Minister an information return in prescribed form and containing prescribed information. This return must be filed within 60 days of the final distribution. (Until the final distribution, the administrator must continue to file the information return required by subsection 8409(1).)

Subsection 8409(3) is applicable with respect to final distributions made after 1989 except that a return that would otherwise be required to be filed before the day that is 60 days after the date on which these Regulations are published in the *Canada Gazette* need not be filed until that day.

Actuarial Reports
ITR
8410

Section 8410 requires the administrator of an RPP that contains a defined benefit provision to file an actuarial report with the Minister of National Revenue after receiving a demand therefor from the Minister. The Minister's demand must be served personally or by registered or certified mail and must specify a reasonable deadline for receipt of the report. The report must be prepared by an actuary on the basis of reasonable assumptions and in accordance with generally accepted actuarial principles. Furthermore, it must contain such information as is required by the Minister with respect to the defined benefit provisions of the plan.

It should be noted that subsection 147.2(3) of the Act requires that an actuarial report be filed with the Minister whenever the Minister's approval is sought in connection with employer contributions to be made to an RPP. Section 8410 permits the Minister to require actuarial reports to be prepared at other times as determined by the Minister.

Section 8410 is applicable after 1989.

Registered Pension Plans
ITR
Part LXXXV

New Part LXXXV of the Regulations, which is applicable after 1988 (except as otherwise noted), contains many of the new rules relating to registered pension plans (RPPs). These rules apply mainly for the purposes of subsections 147.1 to 147.3 of the Act. The rules include prescribed conditions for the registration of a pension plan and additional conditions that must be satisfied by an RPP. As well, Part LXXXV:

- prescribes amounts as compensation for the purposes of the definition of "compensation" in subsection 147.1(1) of the Act so that benefits can be provided in respect of periods of disability, reduced pay or leave of absence as if these were regular periods of employment (section 8507),

- sets out the procedure for applying for the registration of a pension plan (section 8512),

- requires the filing of amendments to RPPs and sets out the procedure for filing amendments (section 8512),
- imposes an additional limit on the contributions that may be made to certain defined benefit plans (section 8515),
- contains transition rules providing that certain employer contributions to defined benefit provisions of RPPs are eligible contributions for the purposes of subsection 147.2(2) of the Act (section 8516), and
- sets out the limits that apply, for the purposes of subsection 147.3(4) of the Act, with respect to the transfer of amounts from defined benefit plans to money purchase plans or RRSPs (section 8517).

Interpretation
ITR
8500

Section 8500 contains several interpretive provisions for the purposes of Part LXXXV of the Regulations, including the definitions of certain terms used in that Part.

ITR
8500(1)
"active member"

An "active member" of a pension plan in a calendar year is a member to whom benefits accrue under a defined benefit provision of the plan in respect of a period in the year or who makes contributions, or on whose behalf contributions are made, in relation to the year under a money purchase provision of the plan. For example, if a pension plan provides retirement benefits in respect of each year of service up to a maximum of 35 years, an individual will not be considered to be an active member of the plan after the end of the year in which he or she completes 35 years of service (even if accrued retirement benefits continue to increase by virtue of benefit upgrades, indexation or increases in the level of remuneration). This definition is relevant for the purposes of determining whether a pension plan is a multi-employer plan or a specified multi-employer plan.

"average Consumer Price Index"

The "average Consumer Price Index" for a calendar year is defined as 1/12th of the aggregate of the Consumer Price Indexes for each month in the 12-month period ending September 30th of the immediately preceding calendar year. This amount is relevant for the purposes of several rules limiting the amount of retirement benefits which can be paid under a defined benefit provision of an RPP in years subsequent to the year in which the benefits commence to be paid.

"beneficiary"

A "beneficiary" of an individual is a person (including the legal representative of the individual) who is entitled to receive benefits payable by a pension plan after the death of the individual by virtue of the participation of the individual in the plan.

"benefit provision"

A "benefit provision" of a pension plan means either a money purchase or a defined benefit provision of the plan.

"bridging benefits"

"Bridging benefits" provided to a member of a pension plan are retirement benefits payable for a temporary period ending no later than a fixed date determinable at the time the benefits commence to be paid. Bridging benefits are generally provided to a member during the period before the member commences to receive benefits under the Old Age Security program or the Canada Pension Plan or Quebec Pension Plan.

"Consumer Price Index"

The "Consumer Price Index" for a month is the Consumer Price Index for the month as published by Statistics Canada.

"defined benefit limit"

The "defined benefit limit" for a calendar year is $1,722.22 for years before 1995 and, for years after 1994, 1/9 of the money purchase limit for the year. The latter amount is equivalent to $1,722.22 indexed after 1994 to reflect increases in the average wage (as defined by subsection 147.1(1) of the Act).

This definition is relevant for the limits in section 8504 on the amount of retirement benefits that may be paid under a defined benefit plan.

"dependant"

A "dependant" of an individual is defined for the purposes of the survivor benefit provisions in paragraphs 8503(2)(*d*) and (*e*). Those provisions permit an RPP containing a defined benefit provision to provide a pension to a member's spouse or dependant after the member's death. A dependant of a member at the date of the member's death is a parent, grandparent, brother, sister, child or grandchild of the member who was dependent on the member for support at that date. (The listed relationships are given extended meanings by section 252 of the Act.) Furthermore, to qualify as a dependant the related individual must be:

- under 19 years of age throughout the calendar year that includes the date of death,
- a full-time student at the date of death, or
- dependent by reason of mental or physical infirmity at the date of death.

A survivor pension can be provided to a related individual throughout his or her "eligible survivor benefit period" (as defined below).

"disabled"

An individual is "disabled" where the individual suffers from a physical or mental impairment that prevents the individual from performing the duties of employment in which the individual was engaged before the commencement of the impairment.

"eligible period of reduced pay"

An "eligible period of reduced pay" of an employee, as defined with respect to an employer, is a period of employment with the employer in respect of which certain conditions are met. These conditions are that:

> (*a*) the employee is not at any time during the period and after 1990 a person connected with the employer in the manner set out in subsection 8500(3);

(*b*) the employee has been employed by the employer (or predecessor employers to the employer) for at least 36 months before the start of the period; and

(*c*) throughout the period, the remuneration received by the employee from the employer is less than the remuneration that it is reasonable to expect the employee would have received from the employer had the employee rendered services throughout the period on a regular basis for a rate of pay commensurate with the rate of pay of the employee before the period.

The "regular basis" on which an employee renders services is determined having regard to services rendered by the employee to the employer before the period. For example, the expected remuneration of an employee who normally worked on a full-time basis would be based on the full-time rate of pay of the employee.

Special rules apply with respect to eligible periods of reduced pay. By virtue of the rules in section 8507 and subject to the limits in that section, an employee's compensation (as defined in subsection 147.1(1) of the Act) may include all or a portion of the additional remuneration the employee would have received had the period been a regular period of employment at a normal rate of pay. This enables benefits to be provided under, and contributions to be made to, an RPP in respect of such periods as if they were periods of regular employment at a normal rate of pay, without violating the pension adjustment (PA) limits in subsections 147.1(8) and (9) of the Act. In addition, this enables the maximum pension rule in subsection 8504(1) to be based on notional regular pay rather than actual reduced pay. Special rules also apply to employees in salary deferral leave plans, as described in the commentary on section 8508.

The special treatment for eligible periods of reduced pay provides an opportunity for pension accruals or contributions to be maintained despite low-pay years. Rules in subsections 8308(4) and (5) enable the decision as to whether benefits will be provided under a defined benefit provision of an RPP (or contributions to be made under a money purchase provision) in respect of an eligible period of reduced pay to be made after the period, without having the benefits subject to the rules relating to past service benefits. Employee contributions in respect of such a period may exceed the otherwise applicable limits by virtue of the special rule in subparagraph 8503(4)(*a*)(ii). For further details, reference may be made to the commentary on those rules. Typical situations of reduced pay which will be accommodated include a temporary reduction in hours of employment, phased retirement and temporary pay cuts under austerity programs.

An eligible period of reduced pay does not include any portion of a period of disability, since different rules are applicable with respect to such periods.

"eligible period of temporary absence"

An "eligible period of temporary absence" of an individual with respect to an employer is a period throughout which the individual does not render services to the employer by reason of leave of absence, layoff, strike, lock-out or any other circumstance acceptable to the Minister. However, such a period does not include any time after 1990 during which the individual is connected with the employer in the manner set out in subsection 8500(3). It also does not include any portion of a period of disability.

Special rules apply with respect to eligible periods of temporary absence. Subparagraph 8503(3)(*a*)(iii) permits benefits to be provided under a defined benefit provision of an RPP in respect of an eligible period of temporary absence as if it were a period of paid employment. In addition, rules similar to those described in the commentary under the definition of "eligible period of reduced pay" are applicable.

"eligible survivor benefit period"

The "eligible survivor benefit period" of a person who is a dependant of another individual (at the time of the other individual's death) is a period commencing on the day of the other individual's death and ending at the end of the year in which the dependant attains age 18, or, if later, the time at which the dependant ceases to be a full-time student. However, in the case of a person dependent by virtue of physical or mental infirmity, the period extends throughout the period of physical or mental infirmity.

The definition of "eligible survivor benefit period" is relevant to the limits on survivor benefits under paragraphs 8503(2)(*d*) and (*e*).

"existing plan"

An "existing plan" is defined for the purposes of the definition of "grandfathered plan" in subsection 8500(1). An existing plan is a pension plan that was a registered pension plan on March 27, 1988 or a plan in respect of which an application for registration was made to the Minister before March 28, 1988. The expression also includes a pension plan (such as the plan for federally appointed judges) established before March 28, 1988 pursuant to an Act of the Parliament of Canada that declares member contributions to be contributions to a registered pension plan.

"forfeited amount"

A "forfeited amount" under a money purchase provision of a pension plan is an amount to which a member of the plan has ceased to have any rights, other than the portion of that amount that is payable to another person as a consequence of the member's death or the breakdown of the member's marriage or common-law relationship. A forfeited amount would normally arise where a plan member terminates his or her employment before the member's entitlement to employer contributions has fully vested. This definition is relevant for the purpose of subsection 8301(4), which includes in an individual's pension adjustment forfeited amounts that are reallocated to the individual, and for the purposes of the special rules in paragraph 8506(2)(*c*) prohibiting employer contributions in certain circumstances and in paragraph 8506(2)(*f*) and subsection 8506(3) requiring the distribution or reallocation of forfeited amounts.

"grandfathered plan"

A "grandfathered plan" is defined for the purposes of section 8509, which contains special rules applicable to such plans, and paragraph 8511(1)(*b*), which restricts the amendments that may be made to bridging benefits under grandfathered plans. A pension plan is a "grandfathered plan" if it is an existing plan (as defined in subsection 8500(1)) that, on March 27, 1988 contained a defined benefit provision or if it was established (in whole or in part) to replace defined benefits to which one or more individuals were entitled under another plan that is a grandfathered plan.

"lifetime retirement benefits"

"Lifetime retirement benefits" are periodic payments which, once they commence to be paid to a member of a pension plan, will continue to be paid until death unless suspended or commuted before that time. In contrast, bridging benefits are payable for at most a fixed period of time (usually until a member reaches age 65).

"multi-employer plan"

A pension plan is a "multi-employer plan" in a year if, at the beginning of the year (or the time at which the plan is established, if later), it is reasonable to expect that at no time in the year will more than 95 per cent of the active plan members be employed by a single employer or by a related group of employers. However, a plan is not a multi-employer plan where one of the main reasons that more than one employer participates in the plan is to obtain the benefit of the provisions in the Act or the Regulations relating to multi-employer plans.

The definition of a "multi-employer plan" expressly includes a plan that is a specified multi-employer plan (as defined in subsection 8510(2)). Most, if not all, such plans would be multi-employer plans even without this specific inclusion.

In determining whether a group of employers is a "related group", reference must be made to the definition of this expression in subsection 251(4) of the Act. The definition of "multi-employer plan" contains a special rule which provides that, for the purpose of the definition, two corporations that are otherwise related to each other because they are both controlled by the government of Canada or a province are considered not to be related.

Special treatment is provided to multi-employer plans under subsection 8510(5) (relief from registration requirements) and subsection 147.1(9) of the Act (pension adjustment limits). Multi-employer plans are also subject to special provisions relating to the determination of PAs under section 8301 and the reporting of PAs under section 8401.

"pensionable service"

The "pensionable service" of a member of a pension plan under a defined benefit provision of the plan consists of the periods in respect of which lifetime retirement benefits are provided to the member under the provision. For this purpose, benefits are considered to be provided in respect of a particular period if the benefits are connected in some way with that period. The most common connection would be the performance of services or the receipt of remuneration in the period. Additional retirement benefits provided solely as a result of an upgrade or indexation of accrued benefits or an increase in remuneration would be considered to be provided in respect of the period in respect of which the accrued benefits are provided. Restrictions on the periods in respect of which lifetime retirement benefits may be provided are set out in paragraph 8503(3)(*a*).

Often, pensionable service will correspond to the credited service that is used in a benefit formula. However, this will not always be so, since pensionable service consists of periods of elapsed time. Thus, for example, if a plan member works on a half-time basis throughout a year, the full year will be considered to be pensionable service for the purpose of the registration conditions, whereas the benefit formula will generally count only one-half of the year as credited service.

Pensionable service is relevant mainly for the purposes of several rules that limit benefits payable under a defined benefit provision: the maximum pension rule in subsection 8504(1), the limit in subsection 8504(5) on total retirement benefits payable before age 65, the early retirement rules in paragraph 8503(3)(*c*), and the bridging benefit rules in paragraphs 8503(2)(*b*) and 8509(2)(*a*).

"period of disability"

A "period of disability" is a period throughout which an individual is disabled, as defined in subsection 8500(1).

"predecessor employer"

An employer is a "predecessor employer" in relation to a particular employer if the employer has disposed of all or part of its business or assets to the particular employer and employees of the employer have become employees of the particular employer. A "predecessor employer" to a particular employer also includes an employer who is a predecessor employer to another employer who subsequently becomes a predecessor employer to the particular employer. For example, if employer A sells part of its business to employer B, B subsequently sells part of its business to employer C and employees are transferred between employers in conjunction with each sale, A would be regarded as a predecessor employer to C. The definition of "predecessor employer" is relevant for the purposes of the eligible service rules in paragraph 8503(3)(*a*) and the early retirement rules in paragraph 8503(3)(*c*).

"public pension benefits"

"Public pension benefits" are defined to be benefits payable on a periodic basis under Part I of the *Old Age Security Act* or under the Canada Pension Plan or the Quebec Pension Plan. Public pension benefits do not include disability, death or survivor benefits.

"public safety occupation"

A "public safety occupation" is defined as the occupation of a firefighter, police officer, corrections officer, air traffic controller or commercial airline pilot. Employees in a public safety occupation may retire with an unreduced pension earlier than other employees, as discussed in the commentary on paragraph 8503(3)(*c*).

"retirement benefits"

The expression "retirement benefits" is defined as benefits provided to an individual under the terms of a provision of a pension plan that are payable on a periodic basis. For example, the pension (including bridging benefits) payable to a member and the pension payable on death to the member's spouse are considered to be retirement benefits, while lump sum benefits payable after the death of a member are not considered to be retirement benefits.

"surplus"

A "surplus" under a money purchase provision of an RPP is such portion of the amount held in respect of the provision (determined at a particular time) as has not been allocated to members and is not reasonably attributable to

- forfeited amounts (as defined in subsection 8500(1)) under the provision,

- earnings of the plan that are reasonably attributable to forfeited amounts under the provision, or

- earnings of the plan (other than earnings that are reasonably attributable to the surplus under that provision before the particular time) that will be allocated to members as part of the regular allocation of such earnings.

Generally, a money purchase surplus would exist as a consequence of the replacement of a defined benefit plan by a money purchase plan, where there was an actuarial surplus under the defined benefit plan. As discussed in the commentary on paragraph 8506(2)(*c*), employer contributions

under a money purchase provision of an RPP are restricted when there is a surplus under the provision.

"totally and permanently disabled"

An individual is "totally and permanently disabled" if the individual suffers from a physical or mental impairment that prevents the individual from engaging in employment for which the individual is reasonably suited by virtue of the individual's education, training or experience and if there is no reasonable expectation that the individual will recover from the disability.

Under the early retirement rules in paragraph 8503(3)(*c*), certain individuals who are totally and permanently disabled may receive unreduced retirement benefits under a defined benefit provision of a pension plan. Additional benefits may be provided to a permanently disabled individual in some circumstances as outlined in the commentary on paragraph 8503(3)(*d*).

"Year's Maximum Pensionable Earnings"

The "Year's Maximum Pensionable Earnings" (the YMPE) has the meaning assigned by section 18 of the *Canada Pension Plan*.

ITR
8500(2)

Subsection 8500(2) provides that the meanings given to terms in subsection 147.1(1) of the Act also apply for the purposes of Part LXXXV of the Regulations.

ITR
8500(3)

Subsection 8500(3) provides that a person is considered to be connected with an employer at any time if, at that time, the person

> (*a*) owns 10 per cent or more of the issued shares of any class of the capital stock of the employer or of a corporation related to the employer,
>
> (*b*) does not deal at arm's length with the employer, or
>
> (*c*) is deemed, by paragraph (*d*) of the definition of specified shareholder in subsection 248(1) of the Act, to be a specified shareholder of the employer.

(Paragraph (*d*) of the definition of specified shareholder contains a special rule that applies where an individual provides services to an employer who would be carrying on a personal services business if certain conditions were satisfied.)

Subsection 8500(3) contains rules which deem a person to own, for the purposes of the subsection, shares owned by a person with whom the person does not deal at arm's length, by a trust of which the person is a beneficiary, or by a partnership of which the person is a member. Special rules also apply if an individual has a right to acquire shares (instead of owning the shares) where one of the main reasons for the right is to avoid the person being considered as connected with an employer.

Subsection 251(1) of the Act sets out when persons are considered not to deal with each other at arm's length. Related persons -- including individuals connected by blood relationship, marriage or adoption -- are always considered not to deal with each other at arm's length. Where persons are not related, it is a question of fact whether an arm's length relationship exists at a particular time.

The rules in subsection 8500(3) for determining if a person is connected with an employer are similar to, but broader than, the rules in subsection 248(1) of the Act for determining if a person is a "specified shareholder" of a corporation. They also differ in a number of respects from the rules in paragraph 8(*d*) of Revenue Canada's Information Circular 72-13R8 for determining if a person is a "significant shareholder". In particular, the 10 per cent share ownership test is based on ownership of shares of any class, as in the definition of "specified shareholder", rather than shares that carry voting rights, as in the definition of "significant shareholder".

The new registration rules permit a person connected with an employer to accrue benefits under a defined benefit provision of an RPP. The current restriction in paragraph 8(*d*) of Information Circular 72-13R8 that a defined benefit plan not be primarily for the benefit of significant shareholders has not been included in the new rules. However, paragraph 8503(3)(*e*) (paragraph 8509(1)(*d*) in the case of grandfathered plans before 1992) requires that benefits in respect of periods before 1991 be acceptable to the Minister of National Revenue. This will permit Revenue Canada to continue to apply the existing significant shareholder rules in respect of pre-1991 service. In addition, certain restrictions will apply to the benefits provided to a person connected with a participating employer. First, as indicated in the commentary on subsection 8504(1), a special "updated career average" maximum pension rule applies to such a person. Second, the registration rules allowing survivor pensions on death prior to retirement based on projected benefits and allowing special benefits for periods of disability and eligible periods of reduced pay and temporary absence will not apply in the case of a person connected with an employer. Third, benefits in respect of periods before 1991 that become provided after 1988 to a person connected with an employer will not be acceptable if the Minister has not been specifically notified that such benefits are provided.

It should also be noted that special rules in section 8515 apply with respect to the funding of an RPP if benefits are provided primarily to members who are connected with employers who participate in the plan.

ITR
8500(4)

Subsection 8500(4) is a special rule of interpretation which ensures that officers are treated in the same manner as employees for the purposes of the registration rules.

ITR
8500(5)

Subsection 8500(5) provides that the term "spouse" includes a party to a voidable or void marriage. This rule, which corresponds to the rule in subsection 252(3) of the Act, expands the meaning of "spouse" as defined in subsection 147.1(1) of the Act and made applicable to Part LXXXV of the Regulations by subsection 8500(2).

ITR
8500(6)

Several rules that limit benefits payable under a defined benefit provision of a pension plan include, as one element of the limit, the total duration of periods that are pensionable service and that satisfy specified conditions. Subsection 8500(6) clarifies that the only periods to be taken into account for this purpose are the longest periods that satisfy the conditions.

Conditions for Registration and Other Conditions Applicable to Registered Pension Plans

ITR
8501(1) and (2)

Subsections 8501(1) and (2) list the prescribed conditions for the registration of a pension plan and the additional conditions that apply after registration. Most of the conditions are described by reference to other provisions in Part LXXXV of the Regulations.

The prescribed conditions for the registration of a pension plan, which are listed in subsection 8501(1), apply at the time of registration of a plan. They also apply on an on-going basis after registration, by virtue of paragraph 147.1(11)(*a*) of the Act. Failure to comply with these conditions at any time subsequent to registration will result in a pension plan becoming a "revocable plan" as of the time the pension plan fails to comply (which means that the registration of the plan may be revoked). The prescribed conditions for registration are conditions in respect of which compliance may generally be determined at the time of submission of plan documents. For example, the condition in paragraph 8502(*e*) (relating to the latest date for the commencement of the payment of a pension) can be satisfied only by the inclusion of a term in the plan text requiring pensions to commence no later than the date specified in that paragraph. The conditions with the most direct impact on the language of a plan text are those conditions requiring the inclusion of particular stipulations.

Stipulations are required only with respect to the assignment of rights (paragraph 8502(*f*)) and the reduction of benefits and return of contributions to avoid deregistration (paragraphs 8503(4)(*c*) and 8506(2)(*d*)).

The other conditions, listed in subsection 8501(2), apply once a pension plan has been registered. If an RPP fails to comply with any of these conditions, it becomes a revocable plan and, pursuant to subsections 147.1(11) to (13) of the Act, its registration may be revoked. These conditions are also relevant at the time of registration of a plan, but only in a limited respect as noted below. Many of the subsection 8501(2) conditions relate to matters that are under the control of the plan administrator or participating employers and that do not require specific language in the plan text in order to ensure compliance. An example is the restriction (in paragraph 8502(*h*)) on the investments that may be made by an RPP. Some of the conditions -- such as the cross-plan limit with respect to bridging benefits in paragraph 8503(3)(*k*) -- would not be of relevance to many plans, and thus only those plans that need to concern themselves with such conditions would have to include specific terms.

The prescribed conditions for the registration of a pension plan include, in paragraphs 8501(1)(*d*) and (*e*), conditions that enable Revenue Canada to refuse to register a plan where it is apparent that there may, immediately or at a future date, be non-compliance with certain specified conditions that are not prescribed conditions for registration. Specifically, the prescribed condition in paragraph 8501(1)(*d*) is that there be no reason to expect (based on the plan documents) that the conditions referred to in subsection 8501(2) or the conditions in subsection 147.1(10) of the Act (relating to the provision of past service benefits) will not be complied with. To comply with this prescribed condition as it relates to subsection 147.1(10) of the Act, a plan could include a term that provides, in effect, that all past service benefits are subject to compliance with that subsection. The prescribed condition in paragraph 8501(1)(*e*) is that there be no reason to expect that the PA limits in subsections 147.1(8) and (9) of the Act will not be complied with or that contributions will be made to the plan contrary to the rule in subsection 8503(15) (which prohibits certain past service contributions being made in lieu of the payment of salary or a retiring allowance).

The prescribed conditions in subsection 8501(1) and the other conditions in subsection 8501(2) are modified by transition rules in section 8509 and by special rules which apply with respect to multi-employer plans (section 8510). For further details, reference may be made to the commentary on sections 8509 and 8510.

Table 1 below lists the prescribed conditions for the registration of a pension plan (other than the conditions in paragraphs 8501(1)(*d*) and (*e*)) and Table 2 lists the conditions referred to in subsection 8501(2).

Table 1: Prescribed Conditions for Registration
(paragraphs 8501(1)(*a*) to (*c*))

(1)	8502(*a*)	Primary purpose of pension plan
(2)	8502(*c*)	Permissible benefits
(3)	8502(*e*)	Payment of pension
(4)	8502(*f*)	Assignment of rights
(5)	8502(*l*)	Appropriate pension adjustments
(6)	8503(4)(*a*)	Member contributions (defined benefit provisions)
(7)	8503(4)(*c*)	Reduction in benefits and return of contributions (defined benefit provisions)
(8)	8506(2)(*a*)	Employer contributions (money purchase provisions)
(9)	8506(2)(*d*)	Return of contributions (money purchase provisions)

Table 2: Conditions Applicable to Registered Pension Plans
(subsection 8501(2))

(1)	8502(*b*)	Permissible contributions
*(2)	8502(*d*)	Permissible distributions
(3)	8502(*g*)	Funding media
(4)	8502(*h*)	Investments
(5)	8502(*i*)	Borrowing
(6)	8502(*j*)	Determination of amounts
(7)	8502(*k*)	Transfer of property between provisions
*(8)	8503(3)(*a*)	Eligible service (defined benefit provisions)
*(9)	8503(3)(*b*)	Benefit accruals after pension commencement (defined benefit provisions)
*(10)	8503(3)(*d*)	Increased benefits for disabled members (defined benefit provisions)
*(11)	8503(3)(*j*)	Offset benefits (defined benefit provisions)
*(12)	8503(3)(*k*)	Bridging benefits -- cross-plan restriction (defined benefit provisions)
*(13)	8503(3)(*l*)	Division of benefits on marriage breakdown (defined benefit provisions)
*(14)	8503(4)(*b*)	Pre-payment of member contributions (defined benefit provisions)
*(15)	8503(4)(*d*)	Undue deferral of payment (defined benefit provisions)
*(16)	8503(4)(*e*)	Evidence of disability (defined benefit and (*f*)provisions)
(17)	8506(2)(*b*)	Employer contributions (money purchase and (*c*)provisions)
(18)	8506(2)(*e*)	Allocation of earnings (money purchase provisions)
(19)	8506(2)(*f*)	Payment or reallocation of forfeited amounts (money purchase provisions)
(20)	8506(2)(*g*)	Retirement benefits (money purchase provisions)
(21)	8506(2)(*h*)	Undue deferral of payment (money purchase provisions)

* Subject to grandfathering rule under subsection 8509(5)

Permissive Rules
ITR
8501(3)

Subsections 8503(6) and (8) and 8505(3) contain rules permitting an RPP to provide certain benefits or include certain terms. These rules are intended to operate as exceptions to the conditions that would otherwise prohibit the benefits or plan terms. Subsection 8501(3) clarifies that the rules have this effect.

Supplemental Plans
ITR
8501(4)

Paragraph 8502(*c*) restricts the benefits that may be provided under an RPP by requiring that the benefits be in accordance with a number of conditions set out in Part LXXXV of the Regulations. Those conditions do not allow benefits provided under other plans to be taken into account in determining whether the benefits under a particular plan are acceptable. (More precisely, the benefits under a particular defined benefit or money purchase provision must satisfy the conditions without taking into account benefits provided under any other benefit provision.) For example, if the pensions provided to one or more members under a defined benefit plan are to be indexed, the indexing cannot be provided under a separate plan. The reason is that the indexing payments will not be a type of benefit described in subsection 8503(2). In particular, the payments will not be lifetime retirement benefits of a form permissible by reason of paragraph 8503(2)(*a*).

Subsection 8501(4) provides a limited exception from the requirement that the benefits under each benefit provision be tested on a stand-alone basis. If the benefits under a defined benefit plan can reasonably be considered to be supplementary to the defined benefits provided under another plan, subsection 8501(4) allows the two plans to be considered as a single plan for the purpose of determining if the supplemental benefits comply with paragraph 8502(*a*), which requires that the primary purpose of a pension plan be the provision of pensions payable for life, and paragraph 8502(*c*) (permissible benefits).

Subsection 8501(4) applies in a particular situation only with the approval of the Minister of National Revenue. It is expected that the Minister will give such approval only where it is not feasible for the supplementary benefits to be provided under the same plan as the base benefits, or where plans that are currently registered will fail to qualify for registration after 1991 if they are considered on a stand-alone basis.

Benefits Payable to Spouse After Marriage Breakdown
ITR
8501(5)

Subsection 8501(5) applies where a spouse or former spouse of a member of a registered pension plan has, as a consequence of a division of property on marriage breakdown, become entitled to benefits that would otherwise be payable to the member. The purpose of the subsection is to ensure that such benefits are appropriately taken into account in determining whether the conditions in Part LXXXV of the Regulations are satisfied.

Subsection 8501(5) applies where the rights of the spouse or former spouse to the benefits are created

(*a*) by an assignment of benefits by the member in settlement of rights arising on a breakdown of the conjugal relationship between the member and the spouse or former spouse, or

(*b*) by a law that applies to the division of property in settlement of rights arising on a breakdown of the conjugal relationship between the member and the spouse or former spouse.

Where the spouse or former spouse has a right to receive a portion of the member's pension, but no other rights with respect to the pension, the rule in paragraph 8501(5)(*c*) applies. That paragraph provides that, for the purposes of the registration and other conditions in Part LXXXV of the Regulations, the benefits to which the spouse or former spouse is entitled are considered to be payable to the member. Thus, such benefits will be taken into account in determining, for example, whether the maximum pension rule in subsection 8504(1) or the bridging benefit limit in paragraph 8503(2)(*b*) is satisfied with respect to the member.

Where the spouse or former spouse has more extensive rights with respect to the member's benefits, and such rights exist by virtue of a law, paragraph 8501(5)(*d*) provides that the benefits are considered to be benefits of the spouse or former spouse, and not benefits of the member. Thus, such benefits will not be taken into account in determining whether the member's benefits satisfy the conditions in Part LXXXV of the Regulations. However, a related rule in paragraph 8503(3)(*l*) ensures that the aggregate benefits provided to the member and to the member's spouse or former spouse will not be excessive. Paragraph 8501(5)(*d*) would apply, for example, where the spouse or former spouse is permitted to choose a starting date for his or her pension that differs from the starting date for the member's pension.

Indirect Contributions
ITR
8501(6)

In some cases, contributions are made to a pension plan by a trade union or association of employers which has received money from employers, or possibly employees, for this purpose. Subsection 8501(6) provides that, for the purposes of the rules in Part LXXXV of the Regulations, such contributions are considered to be made by the ultimate contributors -- that is, the employers or employees -- and not by the intermediate entity. This ensures, for example, that such contributions are not prohibited by the permissible contributions rule in paragraph 8502(*b*).

Conditions Applicable to All Plans
ITR
8502

Section 8502 contains conditions that apply to every pension plan that is an RPP or is submitted for registration. Some of the conditions are prescribed conditions for registration while the rest are conditions that must be complied with by an RPP. For a discussion of the distinction between the two types of conditions, and a categorization of the conditions in section 8502, reference may be made to the commentary on section 8501.

Primary Purpose
ITR
8502(*a*)

Paragraph 8502(*a*) requires that the main purpose of a pension plan be to provide periodic payments to individuals after retirement and until death in respect of their service as employees. A pension plan that is intended to be collapsed shortly after it is registered would consequently not qualify for registration.

Permissible Contributions
ITR
8502(*b*)

Paragraph 8502(*b*) requires that each contribution made after 1990 to a pension plan be:

- an employee contribution under a money purchase provision of the plan as registered;
- an employee contribution under a defined benefit provision of the plan that is paid in accordance with the plan as registered;
- an employer contribution under a money purchase provision of the plan as registered;
- an employer contribution in respect of a defined benefit provision of the plan, where the contribution is an eligible contribution pursuant to subsection 147.2(2) of the Act;
- a transfer from another registered plan in accordance with the transfer provisions in subsections 146(16) (transfer from an RRSP), 147(19) (transfer from a DPSP) or 147.3(1) to (8) of the Act (transfer from an RPP); or
- an amount acceptable to the Minister transferred to the plan from a pension plan maintained primarily for the benefit of non-residents of Canada in respect of services rendered outside Canada.

A special rule in paragraph 8510(6)(*a*) states that, for the purposes of paragraph 8502(*b*), contributions made to a defined benefit provision of a specified multi-employer plan in accordance with the terms of the plan as registered are considered to be eligible contributions.

Where the federal government or a provincial government participates in a pension plan, any amounts held to the credit of the plan in the accounts of Canada or the province are excluded in determining whether employer contributions are eligible contributions pursuant to subsection 147.2(2) of the Act. Furthermore, in the special situation where contributions are made by the federal government or a provincial government for the benefit of employees of another person (such as a school board), such contributions are treated as contributions of the other person for the purpose of paragraph 8502(*b*).

Permissible Benefits
ITR
8502(*c*)

Paragraph 8502(*c*) restricts the benefits that a pension plan may provide to, or in respect of, plan members. Benefits may be provided under a defined benefit provision of the plan if they are permissible under subsection 8503(2) and if they comply with the conditions in

- paragraph 8503(3)(*c*) (early retirement rules),
- paragraph 8503(3)(*e*) (pre-1991 benefits),
- paragraph 8503(3)(*f*) (determination of retirement benefits),
- paragraph 8503(3)(*g*) (benefit accrual rate),
- paragraph 8503(3)(*h*) and (*i*) (increase in accrued benefits), and
- section 8504 (maximum retirement benefit rules)

Benefits may be provided under a money purchase provision of a pension plan if they are in accordance with subsection 8506(1).

In order to determine whether the requirements of paragraph 8502(*c*) are satisfied, all benefits that could, under any circumstances, become payable under the plan are to be taken into account. It is not necessary that there be a specific plan member whose promised benefits violate a condition for the condition not to be satisfied.

Subparagraph 8502(*c*)(iii) permits a plan to provide benefits in addition to those that satisfy the above conditions where a designated provision of the law of Canada or a province requires the benefits to be provided. To enable plans with members in different jurisdictions to provide benefits on a uniform basis to all plan members, subparagraph 8502(*c*)(iii) applies as if every plan were subject to the designated laws in respect of all members. These additional benefits are permitted to avoid conflicts with federal and provincial pension benefits legislation.

Section 8513 defines, for the purposes of subparagraph 8502(*c*)(iii), subsection 21(2) of the *Pension Benefits Standards Act, 1985* (PBSA) and similar provisions of provincial legislation as designated laws.

Subsection 21(2) of the PBSA provides that on retirement, termination or death, a plan member's pension under a defined benefit plan must be increased by the amount that can be provided by the excess of the member's post-1986 contributions plus interest over 50 per cent of the value of the member's benefits in respect of post-1986 service (determined prior to the application of the subsection). Since the total retirement benefits provided as a consequence of the application of subsection 21(2) of the PBSA may exceed the maximum pension allowable under subsection 8504(1) or (5), it is necessary that a special rule permit such benefits to be paid.

Pursuant to paragraph 8501(5)(*d*), where a spouse or former spouse of a member of a plan is entitled, by virtue of a law, to a portion of the member's pension as a consequence of the breakdown of their marriage, and the law gives the spouse rights with respect to the pension in addition to the right to receive it -- such as the right to elect a starting date different than the starting date for the member's pension -- the pension to which the spouse or former spouse is entitled is considered to be provided to the spouse or former spouse rather than to the member.
Subparagraph 8502(*c*)(iv) permits a pension to be provided to a spouse or former spouse of a plan member in circumstances where paragraph 8501(5)(*d*) is applicable. While no conditions are imposed with respect to such benefits, paragraph 8503(3)(*l*) ensures that the aggregate benefits provided to the member and to the member's spouse or former spouse will not be excessive.

Permissible Distributions
ITR
8502(*d*)

Paragraph 8502(*d*) restricts the distributions which may be made out of an RPP. In addition to such distributions, a plan may provide for the payment of all reasonable administrative, investment and similar expenses incurred in connection with the plan.

Subparagraph 8502(*d*)(*i*) allows for the payment of benefits in accordance with the plan as registered. Restrictions on the benefits that may be provided by an RPP are contained in paragraph 8502(*c*). For the purpose of subparagraph 8502(*d*)(*i*), a payment of benefits would include the transfer of an amount on behalf of a plan member to a registered retirement savings plan (RRSP) or to another RPP, as well as a payment to a spouse of a plan member as a consequence of a settlement of rights on marriage breakdown or the enforcement of an order for support or maintenance.

Subparagraph 8502(*d*)(ii) permits the transfer of property held in connection with a defined benefit provision of a plan, where the property is transferred to another RPP in accordance with subsection 147.3(3) or (8) of the Act. Subsection 147.3(3) permits the transfer of property between defined benefit plans; subsection 147.3(8) permits certain transfers of property from defined benefit plans to money purchase plans where the amount transferred is not immediately allocated to members of the money purchase plan. Subparagraph 8502(*d*)(ii) is intended to allow such transfers where the amount transferred from a plan cannot be considered as a payment of benefits. An example would be the transfer of assets from one defined benefit plan to another on the splitting up of the plan.

Subparagraph 8502(*d*)(iii) permits a return of contributions made by a member of a plan or an employer who participates in the plan in order to avoid the revocation of the registration of the plan. In this connection, it should be noted that a pension plan must include a stipulation allowing such a return of contributions (paragraphs 8503(4)(*c*) and 8506(2)(*d*)).

Subparagraphs 8502(*d*)(iv) and (v) permit contributions (with associated interest) made by an employee to an RPP to be refunded to the employee, where such refund is pursuant to an amendment to a pension plan under which future employee contributions are reduced. Normally, employee contributions will be refunded where a plan is amended so that it no longer requires employee contributions. It should be noted that subsection 147.3(6) of the Act allows refunded contributions in respect of pre-1991 service to be transferred to an RRSP or another RPP.

Subparagraph 8502(*d*)(vi) allows the payment to any person of the person's share of an actuarial surplus in respect of a defined benefit provision of an RPP. However, the transfer rules in section 147.3 of the Act do not permit a surplus payable to a member to be transferred on a tax-free basis to an RRSP or a money purchase provision of another RPP.

Subparagraph 8502(*d*)(vii) permits property held in connection with a money purchase provision of an RPP to be paid to an employer. This allows, for example, the payment of forfeited amounts to an employer.

Payment of Pension
ITR
8502(*e*)

Paragraph 8502(*e*) requires an RPP to provide that retirement benefits will commence to be paid to each member no later than the end of the calendar

year of the member's 71st birthday. This is a slight modification to paragraph 10(*b*) of Information Circular 72-13R8 which requires payment to commence by a member's 71st birthday. A defined benefit provision may, with the approval of the Minister of National Revenue, provide for a later commencement date, but only if benefits do not continue to accrue and benefits are not adjusted to reflect their later commencement.
Paragraph 8502(*e*) further requires that retirement benefits be payable not less frequently than annually.

Assignment of Rights
ITR
8502(*f*)

Paragraph 8502(*f*) requires an RPP to include a stipulation that no right of a person under the plan is capable of being assigned, charged, anticipated, given as security or surrendered. It should be noted that the commutation of a pension would not be considered to be a surrender for the purposes of this rule since benefits are simply paid in a lump sum rather than as periodic payments. Moreover, the stipulation would not be violated where a creditor of a plan member takes recourse against plan distributions to enforce the debt. In particular, payment from a plan in response to collection proceedings to enforce an order for support or maintenance would not violate the stipulation. Paragraph 8502(*f*) provides that the stipulation is not required to prohibit assignment

- pursuant to a court order or written agreement on the breakdown of marriage or other conjugal relationship; or

- by the legal representative of a deceased individual on the distribution of the individual's estate.

Also, the stipulation is not required to prohibit the surrender of benefits where the surrender consists of a reduction in benefits to avoid the revocation of the plan. In fact, if such a surrender is prohibited, the plan may not comply with the requirement of paragraph 8503(4)(*c*).

Funding Media
ITR
8502(*g*)

Paragraph 8502(*g*) requires that the arrangement under which property is held in connection with the plan be acceptable to the Minister of National Revenue. The arrangements currently acceptable to the Minister are summarized in paragraph 6(*e*) of Information Circular 72-13R8.

Investments
ITR
8502(*h*)

Paragraph 8502(*h*) requires that an RPP not hold any investment prohibited under subsection 8514(1) or any investment not permitted by pension benefits legislation that applies to the plan (or, where no such legislation applies, the *Pension Benefits Standards Act, 1985*).

Borrowing
ITR
8502(i)

Paragraph 8502(i) prohibits an RPP from borrowing money for the purposes of the plan, except in limited circumstances. Borrowing is permitted by an RPP where the term of the loan is 90 days or less and the property of the plan is not pledged as security for the loan (unless the money is borrowed to avoid resort to a distress sale of plan assets). In addition, borrowing for the purpose of acquiring income-producing real property is permitted where the amount so borrowed (together with indebtedness incurred as a consequence of the acquisition of the property) does not exceed the cost of the property and no plan assets, other than the real property, are used as security for the borrowed money.

Determination of Amounts
ITR
8502(*j*)

Paragraph 8502(*j*) requires that amounts determined in connection with the administration of an RPP be determined using such reasonable assumptions as are acceptable to the Minister of National Revenue and in accordance with generally accepted actuarial principles. For example, reasonable assumptions and generally accepted actuarial principles would have to be applied in converting a pension to an optional form of payment. Sections 22 and 23 of Information Circular 72-13R8 set out the assumptions acceptable to the Minister with respect to wage and salary increases and the rate of inflation.

Paragraph 8502(*j*) does not apply to the extent that it is inconsistent with other provisions in Part LXXXV of the Regulations. The only relevant provision in this regard is section 8515, which requires that a special actuarial valuation be prepared in connection with the funding of certain plans.

Transfer of Property Between Provisions
ITR
8502(*k*)

Paragraph 8502(*k*) requires that property held in connection with a benefit provision of an RPP not be made available to pay benefits under another benefit provision of the same plan. However, this is not intended to prevent the pooling of assets held in connection with two or more provisions where a proper accounting is maintained of the proportion of the assets available to provide benefits under each provision. An exception to this rule allows a transaction by which such property is, in effect, "transferred" from one provision to another where, if the provisions were in separate RPPs, the transaction would be a transfer of property that was in accordance with any of subsections 147.3(1) to (4), (6) and (8) of the Act. As a consequence of this rule, RPP conversions and "transfers" within a plan will be subject to the same limits as transfers between RPPs.

Appropriate Pension Adjustments
ITR
8502(*l*)

Paragraph 8502(*l*) requires that the terms of an RPP be such that amounts (such as pension adjustments and past service pension adjustments) determined under Part LXXXIII of the Regulations with respect to the plan not be inappropriate having regard to the provisions of that Part and the purposes for which the amount is determined. If the plan terms are inappropriate in this regard, the Minister of National Revenue may refuse to register the plan or may revoke the registration of the plan. Paragraph 8502(*l*) is intended, in particular, to prevent the registration of a pension plan where the pension adjustments are inappropriately low in relation to the benefits provided under the plan.

Reference may also be made to the rules in paragraphs 8503(3)(*h*) to (*j*) and subsection 8503(14), all of which relate to the proper relationship between pension adjustments and benefits provided under a defined benefit provision of an RPP.

Defined Benefit Provisions
ITR
8503

Section 8503 describes the benefits that may be provided under a defined benefit provision of a pension plan and contains conditions applicable to such benefits and to a plan that has a defined benefit provision. Special transition rules and special rules applicable to multi-employer plans are contained in sections 8509 and 8510, respectively.

Net Contribution Account
ITR
8503(1)

Subsection 8503(1) defines the net contribution account of a member of a pension plan in relation to a defined benefit provision of the plan for the purposes of paragraphs 8503(2)(*h*) (lump sum payment on termination) and (*j*) (lump sum payment on death) and subsection 8517(2) (limit on amount that may be transferred to an RRSP or a money purchase provision of an RPP). The account is introduced as a convenient way to describe the amounts that those rules allow to be paid or transferred. Unless necessary to ensure compliance with the above rules, it is not required that a plan maintain a "net contribution account" in respect of each member (although a contributory plan will normally maintain accounts similar to net contribution accounts).

A member's net contribution account is similar to a bank account. In general terms, it is credited with contributions made by the member and with interest, and is charged with payments made in respect of the member. More specifically, a member's net contribution account in respect of a defined benefit provision is

- the sum of all contributions made by the member under the provision,

- **plus** amounts transferred on behalf of the member to the plan in respect of the provision in accordance with any of subsections 146(16) (transfer from an RRSP), 147(19) (transfer from a DPSP), 147.3(2) and 147.3(5) to (7) (transfer from an RPP) of the Act,

- **plus** amounts transferred to the plan in respect of the provision in accordance with subsection 147.3(3) (defined benefit to defined benefit transfer), to the extent that the amounts are derived from contributions made by the member to an RPP, or interest in respect of such contributions,
- **plus** amounts held in connection with another benefit provision of the plan that are made available to provide benefits under the provision, to the extent that if the two provisions were in separate RPPs, such amounts would be included in the member's net contribution account,
- **less** the sum of all payments (whether single or periodic amounts) under the provision in respect of the member, including any amounts paid to other persons whether before or after the death of a member,
- **less** amounts held in connection with the provision that are made available to provide benefits in respect of the member under other benefit provisions of the plan,
- **plus** interest (computed at a reasonable rate) on the outstanding positive balance of the member's net contribution account from time to time, and
- **less** interest (computed at a reasonable rate) on the outstanding negative balance of the member's net contribution account from time to time.

Permissible Benefits
ITR
8503(2)

Subsection 8503(2) describes, for the purposes of paragraph 8502(*c*), the benefits that may be provided under a defined benefit provision of an RPP and imposes conditions with respect to those benefits.

Lifetime Retirement Benefits
ITR
8503(2)(*a*)

Paragraph 8503(2)(*a*) allows lifetime retirement benefits (as defined in subsection 8500(1)) to be paid under a defined benefit provision of an RPP to a plan member. The payments must be equal periodic amounts except where they are reduced after the death of the member's spouse or are adjusted for inflation, as permitted by paragraph 8503(2)(*a*).

Subparagraph 8503(2)(*a*)(ii) allows for automatic cost-of-living adjustments to be made to lifetime retirement benefits. Clause (*a*) of that subparagraph permits the use of any method of adjustment that does not result in increases larger than those warranted by increases in the Consumer Price Index (CPI) from the time that benefits commence to be paid to the time of the latest adjustment. Clause (*b*) permits periodic adjustments at a rate not exceeding 4 per cent per annum. Clause (C) permits (subject to the restriction discussed below) the use of the excess earnings approach, under which adjustments depend on the amount by which the rate of return on a specified pool of assets (such as the assets held in connection with the plan) exceeds a base rate of return. Clause (D) permits (subject to the restriction discussed below) a combination of the approaches described in clauses (A) to (C) to be used.

Automatic cost-of-living adjustments of the type described in clause (C) or (D) are subject to an actuarial equivalence test. The present value of additional benefits expected to be paid as a consequence of the adjustments must not exceed the present value of additional benefits that would be expected to be provided with full CPI indexing (or with indexing at a fixed rate of 4 per cent, if this results in a larger present value).

Subparagraph 8503(2)(*a*)(iii) allows a plan to provide for cost-of-living adjustments at the discretion of any person, where the adjustments (when combined with any non-discretionary adjustments) are warranted by increases in the CPI. However, such discretionary adjustments are not permissible if the plan provides for an automatic adjustment other than one described in clause 8503(2)(*a*)(ii)(A) or (B).

As an alternative to the types of inflation adjustments permitted by subparagraphs 8503(2)(*a*)(ii) and (iii), benefits may be increased on an ad hoc basis from time to time to reflect increases in the CPI. Plan amendments to implement such ad hoc increases are not prohibited by the rules in section 8503.

Bridging Benefits
ITR
8503(2)(*b*)

Paragraph 8503(2)(*b*) permits an RPP to provide bridging benefits to a plan member who commences to receive lifetime retirement benefits under a defined benefit provision of the plan before age 65. Bridging benefits may be paid until a member attains age 65. This accommodates plans that provide additional retirement benefits during the period before benefits are payable under the *Old Age Security Act* (OAS) and the Canada and Quebec Pension Plans (CPP/QPP).

Paragraph 8503(2)(*b*) limits the amount of bridging benefits that may be paid to a plan member. If a member has attained age 60 and has at least 10 years of pensionable service (or 10 years of equivalent full-time service, where the member is connected after 1990 with an employer who participates in the plan) under the provision at the time bridging benefits commence to be paid, the bridging benefits, for the month they commence to be paid, may equal the amount of public pension benefits (OAS and CPP/QPP) which the member would receive if the member were age 65 throughout that month. For this purpose, it is assumed that the member will receive maximum OAS benefits and that the member will be entitled to a proportion of the maximum CPP (or QPP) benefits based on the ratio of the member's highest three calendar years of earnings to the total YMPE for those three years. In subsequent months, the bridging benefits may increase in line with increases in the Consumer Price Index (CPI). (In this regard, see the commentary on subsection 8503(12).)

In the case of a member who has not attained age 60, this maximum is reduced by .25 per cent for each month (3 per cent per year) between the time the benefits commence to be paid and the time the member will attain age 60. In addition, if a member has fewer than 10 years of pensionable service (10 years of equivalent full-time service where the member is connected after 1990 with an employer who participates in the plan), the maximum is prorated. However, the age and service reductions do not apply to the maximum bridging benefits that may be paid to a member who is totally and permanently disabled.

Where retirement benefits are defined in such a way that the benefits are reduced at a specified age, such as age 65, the additional benefits payable on a temporary basis are considered to be bridging benefits. Thus, they are subject to the limit in paragraph 8503(2)(*b*). Where the amount of the reduction depends on amounts that are not known at the time retirement benefits commence to be paid -- for example, the amount of public pension benefits payable at the date of the reduction -- Revenue Canada will accept that the bridging benefits comply with paragraph 8503(2)(*b*) if the limit can reasonably be expected to be satisfied.

Paragraph 8503(3)(*k*) imposes restrictions with respect to the payment of bridging benefits to an individual under more than one defined benefit provision of the same plan or, in certain cases, under defined benefit provisions of two or more plans. Reference may be made to the commentary on that paragraph for further details.

Guarantee Period
ITR
8503(2)(*c*)

Paragraph 8503(2)(*c*) allows retirement benefits payable under a defined benefit provision of an RPP to be guaranteed for up to 5 years if a surviving spouse pension may also be payable on the death of a member, and otherwise for up to 15 years. This means that, after the death of a member who has commenced to receive retirement benefits, the retirement benefits may continue to be paid to one or more beneficiaries for a period ending no later than either 5 years or 15 years after the member commenced to receive the benefits. For each month, the total retirement benefits payable to a beneficiary or beneficiaries must not exceed the retirement benefits (bridging benefits as well as lifetime retirement benefits) that would have been payable to the member had the member survived. For this purpose, any inflation adjustments that it is reasonable to expect would have been made to the member's retirement benefits may be taken into account.

By virtue of paragraph 8503(2)(*n*), an RPP may permit or require guaranteed retirement benefits to be commuted rather than paid on a periodic basis.

A special rule in subsection 8503(6) also permits up to 15 years of guaranteed retirement benefits to be provided to beneficiaries of a plan member who dies before commencement of payment of retirement benefits, but after the member is eligible to retire and commence receiving benefits.

Post-Retirement Survivor Benefits
ITR
8503(2)(*d*)

Paragraph 8503(2)(*d*) permits an RPP to provide for the payment of survivor benefits under a defined benefit provision where a plan member dies after commencing to receive retirement benefits. Retirement benefits payable to the member are not required to be reduced to reflect the additional value of the survivor benefits.

Survivor benefits may be payable to any person who was, at any time, a spouse (as defined in subsection 147.1(1) of the Act) of a member, or who was a dependant (as defined in subsection 8500(1)) of the member at the time of the member's death.

The payment of survivor benefits to a spouse can continue until the death of the spouse. Where a dependant receives survivor benefits, payment can continue for the eligible survivor benefit period of the dependant (as defined in subsection 8500(1)). Such a period ends at the end of the year in which the dependant attains age 18, or, if later, the time at which the dependant ceases to be a full-time student, except that if the individual is dependent by reason of infirmity, payment can continue for as long as the individual continues to have the infirmity.

The amount of survivor benefits payable to a person for a particular month may not exceed 66 2/3 per cent of the retirement benefits (including bridging benefits and inflation adjustments) that would have been payable to the member for the month had the member been alive. In addition, the total amount of survivor benefits payable to all eligible recipients for a month, together with any amounts payable pursuant to a guarantee, may not exceed 100 per cent of the retirement benefits that would have been payable to the member.

Pre-Retirement Survivor Benefits
ITR
8503(2)(*e*)

Paragraph 8503(2)(*e*) permits an RPP to provide for the payment of survivor benefits under a defined benefit provision where a member dies before commencing to receive retirement benefits.

Pre-retirement survivor benefits may be payable to a person who was, at any time, a spouse of the member or who was a dependant (as defined in subsection 8500(1)) of the member at the time of the member's death. Payment of pre-retirement survivor benefits may continue for the same period as post-retirement survivor benefits. For further details, reference may be had to the commentary on paragraph 8503(2)(*d*).

Where a plan member dies after attaining age 65 or the member was, at any time after 1990, connected with an employer who participated in the RPP, the amount of survivor benefits payable for a particular month to a beneficiary of the member is limited to 1/12th of 66 2/3 per cent of the lifetime retirement benefits accrued to the member to the date of the member's death adjusted to reflect increases in the CPI from the member's death to the particular month. (A substantially similar adjustment would also be permitted, as discussed in the commentary on subsection 8503(12)). The total amount payable to all eligible persons for a month is limited to 1/12th of 100 per cent of such lifetime retirement benefits.

Where a plan member dies before attaining age 65 and was not connected after 1990 with an employer who participated in the RPP, the amount of survivor benefits payable to a beneficiary for a particular month is limited to 1/12th of 66 2/3 per cent of the member's projected lifetime retirement benefits (as described below), adjusted to reflect increases in the Consumer Price Index from the member's death to the particular month. (A substantially similar adjustment would also be permitted, as discussed in the commentary on subsection 8503(12).) The total amount payable to all eligible persons for a month is limited to 1/12th of 100 per cent of the member's projected retirement benefits, adjusted in the same manner.

The projected lifetime retirement benefits of a member equals the greater of:

> (*a*) the annual amount of lifetime retirement benefits that would have accrued to the member to age 65 had the member survived to that age and continued in employment and had the member's rate of pay not increased, or if lower, 3/2 of the Year's Maximum Pensionable Earnings (YMPE) for the year in which the member dies, and
>
> (*b*) the annual amount of lifetime retirement benefits accrued to the member to the date of the member's death (determined without applying any early retirement reduction).

Thus, a member's benefits may be projected only to the extent that the projected benefits do not exceed 3/2 of the YMPE for the year of death of the member. This allows a substantial pre-retirement survivor benefit to be paid where a plan member dies after a short period of service.

Where, on the death of a member, benefits are payable under other benefit provisions of the same plan or under other RPPs, the YMPE-based limit that applies in determining the member's projected lifetime retirement benefits is reduced to the extent required by the Minister to take into account the other benefits. In general terms, this reduction is intended to ensure that the opportunity to base pre-retirement survivor benefits on projected pensions cannot be used, or can be used only to a lesser extent, where the total death benefits under a group of related plans have a substantial value. The precise manner in which the reduction is to be determined will depend on the particular facts of each case. In this regard, money purchase balances would have to be converted to accrued benefits in a way that is reasonable and acceptable to the Minister.

Pre-retirement Survivor Benefits -- Alternative Rule
ITR
8503(2)(*f*)

Paragraph 8503(2)(*f*) permits an RPP to provide pre-retirement surviving spouse benefits under a defined benefit provision in lieu of the benefits permissible under paragraph 8503(2)(*e*). Paragraph 8503(2)(*f*) is included primarily to avoid a conflict with the requirements of pension benefits legislation. In some circumstances, that legislation requires that a surviving spouse be provided with a pension the present value of which is equal to the present value of the member's accrued benefits. The amount of such a pension may exceed the amount permissible under paragraph 8503(2)(*e*).

Pre-retirement survivor benefits are permissible under paragraph 8503(2)(*f*) if they are payable to the spouse or former spouse of a deceased member and if the present value of all benefits provided as a consequence of a member's death does not exceed the present value of all benefits accrued under the provision in respect of the member to the day of the member's death. In addition, the surviving spouse benefits must

- commence to be paid by the end of the year in which the spouse or former spouse reaches age 71 (or, if later, within one year after the death of the member),
- be payable for life, and
- satisfy the conditions in paragraph 8503(2)(*a*) (equal periodic payments, except for the permitted forms of indexing).

Pre-retirement Survivor Benefits -- Guarantee Period
ITR
8503(2)(*g*)

Paragraph 8503(2)(*g*) permits pre-retirement survivor benefits payable to a spouse or former spouse of a member under a defined benefit provision to be guaranteed for a period not exceeding 15 years from the date that the survivor benefits commence to be paid. The benefits that may be provided to the beneficiaries of the deceased spouse are identical to the guaranteed benefits that paragraph 8503(2)(*c*) permits to be provided to a plan member.

Lump Sum Payments on Termination
ITR
8503(2)(*h*)

Paragraph 8503(2)(*h*) permits a lump sum to be paid under a defined benefit provision of an RPP to a plan member on the termination of the member from the plan (otherwise than by reason of death). The payment will typically be a return of contributions with interest. The payment must be the last payment which is made to the member under the provision.

Paragraph 8503(2)(*h*) permits a payment equal to the balance in a member's net contribution account (as defined in subsection 8503(1)). In general terms, that balance is equal to the member's contributions under the provision plus interest, less any payments made in respect of the member.

In certain cases a larger payment may be made, equal to the amount that would be the balance in the member's net contribution account if that account were credited with twice the current service contributions made by the member. Normally, the amount that may be paid will equal two times employee contributions plus interest (less any payments made previously in respect of the member). This higher limit is applicable where the contributions made by the member after 1990 would satisfy the condition in paragraph 8503(4)(*a*) with respect to member contributions if the limit in that condition were based on 50 per cent of the member's pension credit instead of 70 per cent, or where that condition has been waived by the Minister of National Revenue. For further details on that condition, reference may be made to the commentary on paragraph 8503(4)(*a*). In general, the higher limit will apply only where member contributions do not fund significantly more than one-half of the benefits provided under the defined benefit provision.

Paragraph 8503(2)(*h*) also permits the amount to be paid to a member on termination to be paid in two or more lump sums. This may be necessary, for example, where solvency restrictions imposed by pension benefits legislation force a deferral in the payment of part of the amount to which the member is entitled.

Paragraph 8503(2)(*m*) is another provision that allows lump sum payments to be made on termination of membership (as well as at any other time). This paragraph permits payments which represent the commuted value of other benefits.

Payment of Commuted Value of Benefits on Death Before Retirement
ITR
8503(2)(i)

Paragraph 8503(2)(*i*) allows an RPP to provide for the payment of one or more lump sum amounts to one or more beneficiaries after the death of a plan member who dies before the member's pension commences, in place of the payment of a pre-retirement survivor pension. The total of all such amounts must not exceed the present value of the member's accrued benefits (plus interest to the date of payment). Paragraph 8503(4)(*d*) requires that such a lump sum be paid as soon as practicable after the member's death.

Lump Sum Payments on Death
ITR
8503(2)(*j*)

Paragraph 8503(2)(*j*) permits an RPP to provide for the balance of a deceased member's contributions under a defined benefit provision to be paid to beneficiaries of the member, after all other payments under the provision have been made to the beneficiaries. Such a refund is limited to the amount of the member's net contribution account in relation to the provision (as defined in subsection 8503(1)). Paragraph 8503(4)(*d*) requires that the refund be made as soon as practicable after all other payments have been made. Paragraph 8503(2)(*j*) enables a plan to guarantee that the total payments in respect of a member will not be less than the contributions made by the member plus interest.

In certain cases paragraph 8503(2)(*j*) permits a larger payment to be made, equal to the amount that would be the balance in the member's net contribution account if that account were credited with twice the current service contributions made by the member. This higher limit is applicable only if the member dies before the member's pension commences to be paid and a pre-retirement survivor pension is not payable, and only if lump sum payments on termination from the plan otherwise than by reason of death are subject to the higher limit. For further details on the higher limit, reference may be made to the commentary on paragraph 8503(2)(*h*).

Additional Post-Retirement Death Benefits
ITR
8503(2)(*k*)

Paragraph 8503(2)(*k*) permits survivor benefits, in addition to the survivor benefits permitted by paragraph 8503(2)(*d*), to be provided under a defined benefit provision of an RPP to the spouse of a member who dies after commencing to receive retirement benefits. The total pension payable to the surviving spouse may not exceed the pension that would have been payable to the member had the member survived. To obtain the additional survivor benefits permitted by paragraph 8503(2)(*k*), a member must forego a portion of his or her lifetime retirement benefits, so that the present value of benefits provided in respect of the member does not exceed the present value of the following benefits:

- the lifetime retirement benefits that would be payable to the member if no reduction were applied on account of benefits payable after the death of the member, and

- a 66 2/3 per cent survivor benefit payable to the spouse after the death of the member.

Thus, paragraph 8503(2)(*k*) permits an RPP to provide a 100 per cent joint and survivor pension where survivor benefits are payable to a spouse. The member's pension is required to be reduced only to reflect the additional value of this form over a 66 2/3 per cent joint and survivor pension.

In addition, paragraph 8503(2)(*k*) permits retirement benefits to be guaranteed for up to 15 years when a surviving spouse pension is payable, but only if there is a corresponding reduction in the member's lifetime retirement benefits so that the present value of benefits does not increase. This is an exception to the rule in paragraph 8503(2)(*c*), which allows a maximum 5-year guarantee period if a lifetime pension may be paid to a surviving spouse.

Additional Bridging Benefits
ITR
8503(2)(*l*)

Paragraph 8503(2)(*l*) permits an RPP to provide bridging benefits in excess of the benefits allowed under paragraph 8503(2)(*b*) where that paragraph requires bridging benefits to be reduced on account of short service or retirement before age 60. The additional bridging benefits permissible by paragraph 8503(2)(*l*) may increase a member's bridging benefits to the amount that would be allowable under paragraph 8503(2)(*b*) if no reductions on account of short service or age were required. The additional bridging benefits must be provided in place of a proportion of the lifetime retirement benefits (with associated survivor benefits) otherwise payable to the member, and on a basis that is no more favourable than an actuarially equivalent basis.

Commutation of Benefits
ITR
8503(2)(*m*)

Paragraph 8503(2)(*m*) allows for the payment of a lump sum under a defined benefit provision of an RPP in respect of a member in lieu of other benefits to which the member is entitled, where the lump sum does not exceed the present value of the other benefits. This enables a plan to provide for the commutation of benefits. Payments need not be made to the member. The lump sum may be paid, for example, to a member's RRSP (subject to the limit imposed by section 147.3(4) of the Act) or to the member's spouse or former spouse as a consequence of marriage breakdown.

Where the benefits in lieu of which the lump sum is paid are not indexed, or are only partially indexed, paragraph 8503(2)(*m*) permits the present value to be determined as if the benefits were fully indexed. The assumed indexing prior to the date for commencement of payment may be based on increases in a general measure of wages and salaries while the assumed indexing thereafter may be based on increases in the Consumer Price Index. For example, if a member's accrued pension under a final average earnings plan is commuted, the present value may be determined as if the accrued pension would have been wage-indexed to commencement date and inflation-indexed once the pension started to be paid. Alternatively, the amount of the pension may be computed based on projected earnings (and an assumption made as to the post-commencement increases).

In determining the maximum payment that paragraph 8503(2)(*m*) permits to be paid, regard must be had to the precise nature of the benefits in lieu of which the payment is made. For example, in the case of a final average earnings plan, if 1/2 of the pension accrued to an active member is commuted (so that a fixed amount of pension is subtracted from the pension ultimately determined at retirement), the lump sum that may be paid is less than the lump sum that may be paid if the member gives up 1/2 of the actual pension that would ultimately be payable.

Commutation of Benefits Payable to Beneficiary
ITR
8503(2)(*n*)

Paragraph 8503(2)(*n*) enables an RPP to provide for the commutation of benefits to which a beneficiary of a member is entitled under a defined benefit provision of the plan. For example, a plan may provide for the commutation, after the death of a member, of the remainder of any guaranteed payments. A lump sum payment made in lieu of other benefits cannot exceed the present value of the other benefits.

As an exception to paragraph 8503(2)(*n*), a lump sum may not be paid in lieu of pre-retirement survivor benefits to which a spouse or former spouse of a deceased member is entitled if the lump sum will be transferred to an RRSP or another RPP, unless the Minister of National Revenue has approved the transfer. The purpose of this rule is to prevent the deferral of payment of additional survivor benefits where the survivor benefits are based on a member's projected pension rather than the member's accrued pension.

Conditions Applicable to Benefits
ITR
8503(3)

Subsection 8503(3) contains conditions applicable with respect to the benefits provided under a defined benefit provision of an RPP. The conditions in paragraphs 8503(3)(*a*), (*b*), (*d*), and (*j*) to (*l*) are relevant for the purposes of subsection 8501(2) (which provides that a plan becomes a revocable plan at any time that it does not comply with the conditions referred to in that subsection); the remainder of the conditions are relevant for the purposes of paragraph 8502(*c*) (which is the prescribed condition for registration that restricts the benefits that may be provided under an RPP).

Eligible Service
ITR
8503(3)(*a*)

Paragraph 8503(3)(*a*) restricts the lifetime retirement benefits that may be provided to a member under a defined benefit provision of an RPP to benefits that are provided in respect of the following periods:

(i) a period throughout which the member is employed in Canada by, and receives remuneration from, an employer who participates in the plan,

(ii) a period throughout which the member was employed in Canada by, and received remuneration from, a predecessor employer (as defined in subsection 8500(1)) to an employer who participates in the plan,

(iii) an eligible period of temporary absence (as defined in subsection 8500(1)) of the member with respect to an employer who participates in the plan or a predecessor employer (as defined in subsection 8500(1)) to such an employer,

(iv) a period of disability of the member following a period of employment (but only if the member is not connected in such part of the period as is after 1990 with any employer who participates in the plan),

(v) a period in respect of which benefits attributable to employment of the member with a former employer accrued to the member under a defined benefit provision of another RPP, or contributions were made by or on behalf of the member under a money purchase provision of another RPP, if the individual has ceased to be a member of that other plan,

(vi) a period throughout which the member was employed in Canada by a former employer where the period was an eligibility period for the participation of the member in another RPP, and

(vii) a period acceptable to the Minister of National Revenue throughout which the member is employed outside Canada.

By virtue of subparagraph 8503(3)(*a*)(vii), lifetime retirement benefits may be provided in respect of foreign service only to the extent acceptable to Revenue Canada. A description of the foreign service that is currently acceptable is found in paragraph 8(*e*) of Information Circular 72-13R8.

Lifetime retirement benefits that cannot be considered to be in respect of specific periods of time are not permissible. An exception is made for additional benefits provided to a member who is totally and permanently disabled, which benefits are subject to the limits in paragraph 8503(3)(*d*). This exception accommodates an immediate disability pension based on the pension that would have accrued to a member had the member continued in employment. Further exceptions are provided by subsection 8505(3) (additional lifetime retirement benefits provided in connection with a downsizing program) and subsection 8510(8) (purchase of additional benefits under a SMEP). Where it is not clear how the lifetime retirement benefits under a defined benefit provision are to be associated with particular periods of time, section 8519 requires that the association be made in a manner acceptable to the Minister. For further discussion of the association of benefits with periods of time, reference may be made to the commentary on the definition of "pensionable service" in subsection 8500(1).

Benefit Accruals After Pension Commencement
ITR
8503(3)(*b*)

Paragraph 8503(3)(*b*) prohibits the continued accrual of benefits under a defined benefit provision of an RPP after retirement benefits have commenced to be paid to the member under the provision or under any other defined benefit provision of the RPP. The prohibition also applies on a cross-plan basis where an employer who participates in one plan also participates (or does not deal at arm's length with an employer who participates) in another plan.

There are several exceptions to the condition in paragraph 8503(3)(*b*). Under the special rules in subsection 8503(9), benefits are allowed to accrue after the return to work of a retired plan member whose benefits cease to be paid. The cross-plan restriction on benefit accruals also does not apply to multi-employer plans by virtue of paragraph 8510(5)(*b*).

Early Retirement
ITR
8503(3)(*c*)

Paragraph 8503(3)(*c*) provides that lifetime retirement benefits under a defined benefit provision of an RPP may be paid without reduction on account of early retirement if they commence to be paid on or after a day determined in accordance with that paragraph. Benefits commencing earlier must be reduced by at least the percentage reduction specified in the paragraph.

For most occupations, no reduction is required if lifetime retirement benefits commence to be paid to a member on or after the earliest of:

(*a*) the day the member attains age 60,

(*b*) the day on which the member has 30 years of early retirement eligibility service, and

(*c*) the day on which the aggregate of the member's age and years of early retirement eligibility service is equal to 80.

Where a member is employed in a public safety occupation, the age in (*a*) is replaced by 55, the service in (*b*) is replaced by 25 and the aggregate in (*c*) is replaced by 75. Subsection 8500(1) defines the following occupations as public safety occupations: firefighter, police officer, corrections officer, air traffic controller and commercial airline pilot.

In the case of a plan member who has never been connected (as defined in subsection 8500(3)) with an employer who participates in the plan, or who has been so connected only before 1991, lifetime retirement benefits may be paid without reduction if the member retires after becoming totally and permanently disabled. The condition as to connectedness does not apply in the case of a multi-employer plan, by virtue of paragraph 8510(5)(*a*).

The "early retirement eligibility service" of a member in relation to a defined benefit provision of a pension plan consists of the pensionable service (as defined in subsection 8500(1)) of the member under the provision together with any other periods of employment of the member with an employer who participates in the plan or with a predecessor employer (as defined in subsection 8500(1)) to such an employer.

Where a pension commences prior to the earliest day set out above, the level of the member's lifetime retirement benefits must be reduced by at least .25 per cent for each month (3 per cent per year) that the commencement date precedes the earliest day on which an unreduced benefit could have been paid if the member had continued in employment until that day. This rule replaces the requirement in paragraph 10(*c*) of Information Circular 72-13R8 that the cost of a pension payable in cases of early retirement not exceed the cost of a maximum pension payable from the earlier of age 60 or the member's normal retirement age under the plan, as a single life annuity with a 10 year guarantee.

Paragraph 10(*a*)(iii) of the Information Circular permits in some cases the payment of full benefits before normal retirement age and the crediting of deemed years of service in situations where early retirement is imposed for reasons such as technological change. This rule is highly discretionary and difficult to administer. Accordingly, no equivalent provision is included in the new registration rules. However, it is anticipated that the reduced pay and temporary absence rules will provide plan sponsors with some flexibility to create special early retirement arrangements where the need exists. In addition, the downsizing rules in section 8505 will enable special benefits to be provided to individuals who are terminating employment as a consequence of a downsizing program acceptable to Revenue Canada.

Increased Benefits for Disabled Member
ITR
8503(3)(*d*)

Paragraph 8503(3)(*d*) prohibits the amount of lifetime retirement benefits payable to a plan member under a defined benefit provision of an RPP from depending on whether the member is physically or mentally impaired at the time his or her pension commences to be paid, except as permitted. The first exception is that this condition does not apply as long as the benefits that are provided satisfy the early retirement condition in paragraph 8503(3)(*c*). Thus, a plan may provide for different reductions on account of early retirement, depending on whether or not retirement is because of disability. As a second exception, additional benefits may be provided, as described below, if a member is totally and permanently disabled (as defined in subsection 8500(1)) at the time the member's pension commences, but only if the member has never been connected (as defined in subsection 8500(3)) with an employer who participates in the plan, or has been so connected only before 1991. The condition as to connectedness does not apply to benefits provided under a multi-employer plan, by virtue of paragraph 8510(5)(*a*).

The amount of lifetime retirement benefits that may be paid to a member who is totally and permanently disabled is, for the month in which payments commence, equal to 1/12th of the greater of:

> (*a*) unless the member has attained age 65 at the time payments commence, the annual amount of projected lifetime retirement benefits that would have been payable to the member if the member had continued in employment to age 65 without any increase in rate of pay, or if lower, the Year's Maximum Pensionable Earnings (YMPE) for the year in which the member's benefits commence to be paid, and
>
> (*b*) the annual amount of lifetime retirement benefits accrued to the member to the time the member's benefits commence to be paid,

determined as if the member were not disabled and without applying any early retirement reduction.

The above limit is adjusted for subsequent months to reflect increases in the Consumer Price Index. (In this regard, see the commentary on subsection 8503(12).)

Where a member who is totally and permanently disabled is also entitled to benefits under other benefit provisions of the same plan or under other RPPs, the YMPE limit that applies to projected benefits is reduced to the extent required by the Minister to take into account the other benefits. In general terms, this reduction is intended to ensure that the opportunity to provide a projected pension cannot be used, or can be used only to a lesser extent, where the aggregate pension under a group of related plans is a substantial amount. The precise manner in which the reduction is to be determined will depend on the particular facts of each case.

The condition in paragraph 8503(3)(*d*), which permits the pension payable to a totally and permanently disabled member to be determined on a projected basis, should not be confused with the condition in paragraph 8503(3)(*a*), which permits benefits to accrue in respect of a period of disability that is before the commencement of a member's pension.

Pre-1991 Benefits
ITR
8503(3)(*e*)

Paragraph 8503(3)(*e*) requires that all benefits provided under a defined benefit provision of an RPP in respect of periods before 1991 be acceptable to the Minister of National Revenue. This will permit Revenue Canada to continue to apply, with respect to pre-1991 benefits, a number of restrictions in Information Circular 72-13R8 that have not been included in these regulations or that differ from the restrictions in these regulations. These restrictions in the Circular, which include the cross-plan maximum pension rule and restrictions on the provision of benefits to significant shareholders, are not necessary for post-1990 benefits because of the control over benefits provided by the pension adjustment and past service pension adjustment rules.

A special rule applies where pre-1991 benefits are provided after 1988 to a plan member who is or was connected with an employer who participates in the plan. The benefits are considered to be unacceptable to the Minister if the Minister is not specifically notified in writing that the benefits are provided to such a member. This rule is intended to ensure that the Minister is fully informed when benefits are provided to members connected with participating employers.

Determination of Retirement Benefits
ITR
8503(3)(*f*)

Paragraph 8503(3)(*f*) requires that the amount of retirement benefits under a defined benefit provision of an RPP be defined in such a manner that a member's pension credit for each year under the provision in respect of each employer be determinable at the end of the year. This condition is similar to the current rule (in paragraph 9(*a*) of Information Circular 72-13R8) which requires that defined benefits be in accordance with a definite formula set forth in the plan. Paragraph 8503(3)(*f*) would preclude, for example, the registration of a plan under which benefits in respect of a particular year could not be calculated until the exercise of discretion by an employer. The main purpose of the rule is to ensure that pension adjustments can be calculated for each year.

Benefit Accrual Rate
ITR
8503(3)(*g*)

Paragraph 8503(3)(*g*) applies where the amount of a member's retirement benefits is determined by reference to the member's remuneration. It restricts the benefit accrual rate or rates used to determine the member's benefits to a maximum of 2 per cent. For example, paragraph 8503(3)(*g*) would prohibit a career average benefit of 2.4 per cent of earnings (regardless of whether the benefit is subject to an overall limit of 2 per cent of final average earnings for each year of service).

Paragraph 8503(3)(*g*) also applies where the benefit formula is equivalent to multiplying remuneration by one or more benefit accrual rates. In this case, the formula must be such that the equivalent benefit accrual rates do not exceed 2 per cent. As an example, if member contributions to an RPP are 5 per cent of earnings, a formula providing for a pension of 50 per cent of member contributions would not be acceptable, since the equivalent benefit accrual rate is 2.5 per cent.

A transition rule in subsection 8509(8) provides that paragraph 8503(3)(*g*) applies only to post-1994 benefits in the case of a plan that is presently registered or has been submitted for registration. For further details on this transition rule, reference may be had to the commentary on subsection 8509(8).

Increase in Accrued Benefits
ITR
8503(3)(*h*)

Paragraph 8503(3)(*h*) contains a rule intended to prohibit lifetime retirement benefits that are determined in such a way that pension adjustments may not be commensurate with the benefits that are actually paid. This condition should be read in conjunction with the broader rule in paragraph 8502(1) that prohibits plan terms that result in inappropriate pension adjustments and other amounts.

Paragraph 8503(3)(*h*) applies where the amount of lifetime retirement benefits provided under a defined benefit provision of an RPP to a member in respect of a calendar year depends on the member's remuneration in subsequent years. It requires that the formula for determining the amount of lifetime retirement benefits be such that accrued benefits in respect of a particular year grow no more rapidly than the member's remuneration. The paragraph also applies where the benefits in respect of a particular year depend on the value of a general measure of wages and salaries for subsequent years, and requires that accrued benefits in respect of the year grow no more rapidly than the general measure.

The following is an example of a type of benefit formula that is prohibited by paragraph 8503(3)(*h*):

((2 per cent x final average earnings) - $500) x pensionable service

Under this formula, if a member's remuneration for a particular year is $25,000, the member's pension credit for the year will be nil. However, if the member's final average earnings turn out to be $60,000, the member will receive a pension of $700 in respect of the year. In this example, the pension credit is inappropriate given the actual pension that is paid.

The Minister of National Revenue is permitted to waive the condition in paragraph 8503(3)(*h*). It is expected that the condition will be waived where the violation of the condition is minor or where there is a reasonable expectation that the benefit formula will be amended from time to time in such a way that actual benefits will be consistent with pension credits.

Paragraph 8503(3)(*h*) contains an exception for a formula that would otherwise be prohibited where the formula is designed taking into account OAS or CPP/QPP benefits. A typical example would be a formula of the following type:

> (1.3 per cent x final average earnings up to YMPE + 2 per cent x final average earnings in excess of YMPE) x pensionable service

The transition rule in subsection 8509(8) provides that this exception applies with respect to a plan that is presently registered or has been submitted for registration only if the plan complies with the condition in paragraph 8503(3)(*g*) -- that is, the highest benefit accrual rate does not exceed 2 per cent. (Subsection 8509(8) exempts pre-1995 benefits under such plans from the requirement of paragraph 8503(3)(*g*).)

Where the benefits under a defined benefit provision are reduced by benefits payable under another benefit provision or under a deferred profit sharing plan, the condition in paragraph 8503(3)(*h*) applies on the assumption that no such benefits are deducted.

Increase in Accrued Benefits -- Fluctuating Service
ITR
8503(3)(*i*)

Paragraph 8503(3)(*i*) is included for a similar purpose to the rule in paragraph 8503(3)(*h*). Paragraph 8503(3)(*i*) applies where the amount of lifetime retirement benefits provided under a defined benefit provision of an RPP to a member in respect of a calendar year depends on the member's remuneration in subsequent years. It requires that the formula for determining the amount of lifetime benefits be such that any increase in accrued benefits as a consequence of increased remuneration is primarily attributable to an increase in the rate of a member's remuneration. In particular, this precludes a pension formula under which benefits accrued in respect of a year increase as a consequence of an increase, in subsequent years, in remuneration because of an increase in the number of hours worked.

Paragraph 8503(3)(*i*) generally applies only where benefits are provided to part-time workers. It effectively requires a pension plan offering a best average or final average pension to part-time workers to annualize earnings and to count as credited service the portion of each year worked.

Offset Benefits
ITR
8503(3)(*j*)

Paragraph 8503(3)(*j*) is a special rule applying where the amount of lifetime retirement benefits provided to a member under a defined benefit provision of a pension plan is reduced by the amount of lifetime retirement benefits provided under another benefit provision of a registered pension plan or the amount of a lifetime annuity provided to the member under a deferred profit sharing plan. In such circumstances, where a lump sum amount is paid in full or partial satisfaction of the member's entitlement to such offsetting benefits, paragraph 8503(3)(*j*) requires that the offset be determined as if the lump sum had not been paid. That is, it requires that the offset take into account the lifetime retirement benefits or the lifetime annuity foregone as a result of the payment of the lump sum.

The purpose of this rule is to ensure that benefits provided under a defined benefit provision of an RPP correspond with the pension credit determined with respect to that provision. Where the benefit formula includes an offset of the nature described above, the offset is taken into account in determining pension credits. Thus, it would be inappropriate for benefits to ultimately be determined without an offset.

Bridging Benefits -- Cross-Plan Restriction
ITR
8503(3)(*k*)

Paragraph 8503(3)(*k*) prohibits the payment of bridging benefits under a defined benefit provision of an RPP to a member to whom bridging benefits are paid under another defined benefit provision of the RPP or under a defined benefit provision of another RPP. This rule is intended to prevent the payment of an inappropriately large amount of bridging benefits. The rule does not apply with respect to any bridging benefits that are paid in lieu of lifetime retirement benefits, as long as benefits are converted on an actuarially equivalent (or less favourable) basis.

Paragraph 8503(3)(*k*) does not apply where, in general terms, RPPs are independent and it would not be reasonable to expect the benefits provided under the plans to be coordinated. More specifically, the paragraph does not apply with respect to the bridging benefits paid to a member under a defined benefit provision of a particular RPP if

- no bridging benefits are paid to the member under any other defined benefit provision of the plan,
- the decision to provide the bridging benefits was not made by the member or by persons with whom the member does not deal at arm's length, and
- none of the employers who participates in any other RPP that pays bridging benefits to the member also participates, or deals on a non-arm's length basis with an employer who participates, in the particular plan.

The Minister of National Revenue may waive the condition in paragraph 8503(3)(*k*). It is expected that a waiver would be granted only where there are valid reasons for providing bridging benefits under more than one defined benefit provision and Revenue Canada is satisfied that aggregate bridging benefits will not exceed the maximum benefits that could be provided under a single provision.

By virtue of paragraph 8510(5)(*c*), paragraph 8503(3)(*k*) does not apply to a multi-employer plan that provides bridging benefits under a single defined benefit provision.

Division of Benefits on Marriage Breakdown
ITR
8503(3)(*l*)

Paragraph 8503(3)(*l*) imposes restrictions that are intended to ensure that where a spouse or former spouse of a member becomes entitled to a portion of the member's benefits as a consequence of a breakdown of their marriage or other conjugal relationship, the aggregate benefits provided to the member and to the spouse or former spouse do not exceed the benefits that would otherwise have been provided to the member.

Paragraph 8503(3)(*l*) applies only where the entitlement of the spouse or former spouse is created by a law which gives the spouse or former spouse rights with respect to the pension, such as the right to determine the commencement date. In these circumstances, paragraph 8501(5)(*d*) provides that the pension is considered to be provided to the spouse or former spouse, and not to the member.

Paragraph 8503(3)(*l*) requires that the member's benefits be reduced so that the total present value of benefits provided in respect of the member (including benefits provided to the spouse or former spouse) does not increase as a consequence of the division of the member's benefits. Furthermore, it prohibits the adjustment of the member's benefits at any future time to replace benefits to which the spouse or former spouse has become entitled.

Paragraph 8503(3)(*l*) does not apply in the more common situation where a spouse or former spouse simply becomes entitled to receive payments that would otherwise be made to the member -- for example, where the member assigns a portion of his or her benefits. In this case, paragraph 8501(5)(*c*) provides that the full amount of the member's benefits continues to be considered to be payable to the member. Thus, benefits to which the spouse or former spouse is entitled will be taken into account in determining whether the conditions in section 8503 are satisfied by the member's benefits.

Additional Conditions
ITR
8503(4)

Subsection 8503(4) imposes a number of conditions applicable to an RPP that contains a defined benefit provision. The conditions in this subsection are conditions other than those that relate to the benefits that may be provided under a defined benefit provision of an RPP.

Member Contributions
ITR
8503(4)(*a*)

Paragraph 8503(4)(*a*) restricts the contributions that may be made by plan members under a defined benefit provision of an RPP.
Subparagraph 8503(4)(*a*)(*i*), which applies in respect of contributions made after 1990, requires that current service contributions made by a member in respect of a year that does not include a period of disability or an eligible period of reduced pay or temporary absence not exceed the lesser of:

> (*a*) 9 per cent of the member's compensation for the year from employers who participate in the plan on behalf of the member, and
>
> (*b*) $1,000 plus 70 per cent of the sum of the member's pension credits for the year under the provision, determined without applying the transition rules in paragraphs 8302(2)(*b*) (benefit accrual cap) and

8302(3)(*g*) (exclusion of benefits in respect of specified ranges of earnings) that would otherwise apply before 1994.

Subparagraph 8503(4)(*a*)(ii) requires that current service contributions made in respect of a year that includes a period of disability or an eligible period of reduced pay or temporary absence be determined using a method consistent with that used to determine current service contributions in respect of other years, except that a member may be permitted or required to make larger contributions in respect of such periods, if such larger contributions do not exceed the amount necessary to fund benefits provided in respect of such periods.

Subparagraph 8503(4)(*a*)(iii) permits a member to make past service contributions, not exceeding the amount reasonably necessary to fund past service benefits provided to the member.

The Minister of National Revenue is permitted, by subsection 8503(5), to waive the application of paragraph 8503(4)(*a*) in certain circumstances. For further details, see the commentary on that subsection.

The purpose of the restrictions in paragraph 8503(4)(*a*) is to ensure that member contributions are not out of proportion to promised benefits. This should reduce the likelihood of benefits being provided that are not in accordance with the benefit formula: for example, a refund of member contributions plus interest or an additional pension to satisfy the "50 per cent employer contribution rule" contained in subsection 21(2) of the *Pension Benefits Standards Act, 1985* or a similar provision of provincial pension benefits legislation.

Prepayment of Member Contributions
ITR
8503(4)(*b*)

Paragraph 8503(4)(*b*) prohibits the making of member contributions under a defined benefit provision of an RPP before the calendar year to which the contributions relate.

Reduction in Benefits and Return of Contributions
ITR
8503(4)(*c*)

Paragraph 8503(4)(*c*) requires an RPP to include a stipulation permitting benefits under a defined benefit provision to be reduced so as to avoid the revocation of the plan's registration. Such reduction could be necessary, for example, where the plan is discovered to be in violation of the maximum pension rule in subsection 8504(1) or the PA of a member for a year exceeds the limits in subsection 147.1(8) of the Act. The stipulation required by paragraph 8503(4)(*c*) must also permit a return of contributions to a plan member or employer to avoid revocation of the plan's registration. A return of employer contributions could be required, for example, where employer contributions in excess of eligible contributions (as defined in subsection 147.2(2) of the Act) are made to the plan. The stipulation ensures that where plan benefits or contributions fail to comply with any condition, the situation may be remedied.

Undue Deferral of Payment
ITR
8503(4)(*d*)

Paragraph 8503(4)(*d*) requires that each lump sum amount payable after the death of a member be paid as soon as is practicable after the member's death or, if retirement benefits are also payable after the death of the member, as soon as practicable after all other benefits have been paid. The purpose of this rule is to prevent an individual from leaving a lump sum in an RPP in order to benefit from the deferral of taxes on investment earnings.

Evidence of Disability
ITR
8503(4)(*e*) and (*f*)

Where additional retirement benefits are payable to a member who is totally and permanently disabled, paragraph 8503(4)(*e*) requires that the plan administrator be satisfied, on the basis of a written certification by a medical doctor, that the member is so disabled before the additional benefits may be paid. Paragraph 8503(4)(*f*) imposes a similar requirement with respect to benefits that accrue in respect of a period of disability.

Waiver of Member Contribution Condition
ITR
8503(5)

Subsection 8503(5) allows the Minister of National Revenue to waive the condition in paragraph 8503(4)(*a*) relating to maximum member contributions where employee contributions are determined in a manner acceptable to the Minister and it is reasonable to expect, on a long-term basis, that the regular current service contributions made by members will fund no more than one-half of the related benefits.

Pre-Retirement Death Benefits
ITR
8503(6)

Subsection 8503(6) permits an RPP to provide pre-retirement death benefits as if a member had retired immediately before dying. Specifically, a plan may provide benefits after the death of a member who dies before commencing to receive a pension but after becoming eligible to receive a pension (for example, by retiring) that would be permissible if the member's pension had commenced to be paid immediately before death. Subsection 8503(6) is mainly intended to enable a plan to provide guarantee payments in these circumstances. By virtue of subsection 8501(3), the conditions in Part LXXXV of the Regulations do not apply to the extent that they are inconsistent with subsection 8503(6).

Commutation of Lifetime Retirement Benefits
ITR
8503(7)

Subsection 8503(7) contains special rules that apply with respect to the commutation of a member's lifetime retirement benefits under a defined benefit provision of an RPP.

Paragraph 8503(7)(*a*) applies where a plan member's lifetime retirement benefits are fully commuted but the member continues to be entitled to bridging benefits. By virtue of subparagraph 8503(2)(*b*)(*i*), bridging benefits may not commence to be paid unless lifetime retirement benefits have commenced to be paid. Paragraph 8503(7)(*a*) provides that this condition does not apply where the member's lifetime retirement benefits are fully commuted before they commence to be paid.

Paragraph 8503(7)(*b*) applies where the portion of a plan member's lifetime retirement benefits payable after a particular age (such as 65) is commuted. It provides that the lifetime retirement benefits that are not commuted are to be regarded as lifetime retirement benefits (even though they are not payable for the remainder of the member's lifetime) and not as bridging benefits. This ensures that the benefits will not be subject to the limit on bridging benefits in paragraph 8503(2)(*b*).

Subsection 8503(7) enables an RPP to provide for the partial commutation of benefits where the commuted value of all benefits would exceed the amount that subsection 147.3(4) of the Act permits to be transferred to an RRSP. Lifetime retirement benefits, or the portion of such benefits payable after age 65, may be commuted and transferred (subject to the subsection 147.3(4) limit) while the plan continues to provide benefits to age 65.

Suspension or Cessation of Pension
ITR
8503(8)

Subsection 8503(8) permits an RPP to provide, in certain circumstances, for the suspension or termination of retirement benefits payable under a defined benefit provision of the plan. By virtue of subsection 8501(3), the conditions in Part LXXXV of the Regulations do not apply to the extent that they are inconsistent with subsection 8503(8).

Paragraph 8503(8)(*a*) permits an RPP to provide for the suspension of payment of a pension where the pension payable after the suspension is not altered because of the suspension. The paragraph also permits a pension to be suspended where the conditions for the application of subsection 8503(9) are satisfied. That subsection applies where a member's pension is suspended for a period of reemployment and is then redetermined in a way specified in the subsection.

Paragraph 8503(8)(*b*) permits an RPP to provide for the cessation of payment of any additional benefits that are being paid to a member by reason of disability. The termination of such payments might occur, for example, where the member recovers from the disability. The rule ensures that the condition in paragraph 8503(2)(*a*) (requiring level payments or inflation-adjusted payments) is not violated by reason of the cessation of payment.

Re-employed Member
ITR
8503(9) to (11)

Subsection 8503(9) contains rules that enable an RPP to provide for continued accrual of retirement benefits under a defined benefit provision by a plan member who returns to work after commencing to receive retirement benefits. The rules also enable such a member's retirement benefits to be recalculated in other ways. The rules are qualified by virtue of the application of subsections 8503(10) and (11), as described below.

Subsection 8503(9) applies where a pension plan provides for the suspension of payment of retirement benefits to a plan member who is re-employed, and for the redetermination of the member's retirement benefits by:

- including benefits in respect of the period of re-employment,
- recalculating an early retirement reduction factor, or
- adjusting the benefits to compensate for any payments forgone after age 65.

Paragraphs 8503(9)(*c*) and (*e*) modify certain conditions in subsections 8503(2) and (3) and section 8504 so that benefits can be redetermined as described above after a period of re-employment. Specifically, paragraph 8503(9)(*c*) modifies the restriction in paragraph 8503(3)(*b*) (prohibition on benefit accruals after pension commencement) so that benefits can accrue during a period of re-employment. Paragraph 8503(9)(*e*) provides that the following conditions apply as if retirement benefits had not previously commenced to be paid: the bridging benefits rule (paragraph 8503(2)(*b*)), the early retirement rules (paragraph 8503(3)(*c*)), the disability benefits rule (paragraph 8503(3)(*d*)) and the maximum pension limitations (section 8504).

Paragraph 8503(9)(*f*) allows for benefits on the death of a re-employed plan member to be paid as if lifetime retirement benefits had not previously commenced to be paid.

If a member who was totally and permanently disabled (as defined in subsection 8500(1)) at the commencement of the member's pension subsequently recovers and returns to work, subsection 8503(9) permits benefits to be credited in respect of the period of disability even though a pension was paid during this period. Specifically, paragraph 8503(9)(*d*) provides that paragraph 8503(3)(*b*) (prohibition on benefit accruals after pension commencement) does not apply with respect to benefits in respect of such a period of disability.

Subsection 8503(10) provides that subsection 8503(9) does not apply to an RPP if the plan terms providing for the redetermination of retirement benefits are applicable where benefits have been paid under a provision of the plan to a member while the member was still an employee of a participating employer. This requirement complements the requirement that a member's benefits be suspended while the member is re-employed, and ensures that subsection 8503(9) will not apply if benefits commenced to be paid to a member before retirement.

Subsection 8503(11) is an anti-avoidance rule intended to prevent the re-employment of a former employee for a short period so that the amount of the member's pension will be redetermined (for example, by adjusting the early retirement reduction factor so that it is based on the member's age the second time the member retires). Where it is reasonable to consider that one of the main reasons for the re-employment of a plan member is to enable the plan member to benefit from terms of the plan providing for the recalculation of the member's pension (which terms are permissible because of subsection 8503(9)), the plan becomes a revocable plan.

Limits Dependent on Consumer Price Index
ITR
8503(12)

Several of the conditions applicable to benefits provided under a defined benefit provision of an RPP impose limits that depend on increases in the Consumer Price Index. Specifically, the benefits that may be paid for a particular month depend on the ratio of the Consumer Price Index for that month to the Consumer Price Index for the month in which the benefits commenced to be paid. The limits are:

- the limit on bridging benefits, in subparagraph 8503(2)(*b*)(ii),

- the limits on pre-retirement survivor benefits, in subparagraphs 8503(2)(*e*)(v) and (vi), and

- the limit on the additional retirement benefits that may be paid to an individual who is totally and permanently disabled, in subparagraph 8503(3)(*d*)(ii).

Since the Consumer Price Index for a month is not known until after the month, subsection 8503(12) provides, in effect, that the limits may be computed using any measure of the increase in the Consumer Price Index that is substantially similar to the ratio described above. An example of such a measure would be the ratio of (*a*) the average of the Consumer Price Index for the 12 months ending 3 months before the particular month for which the limit is being applied

to

(*b*) the average of the Consumer Price Index for the 12 months ending 3 months before benefits commence to be paid.

Calendar year averages of the Consumer Price Index would also be acceptable.

Statutory Plans -- Special Rules
ITR
8503(13)

Subsection 8503(13) is a special rule overriding certain restrictions in paragraphs 8503(3)(*b*) (benefit accruals after retirement) and 8503(3)(*c*) (early retirement) in the case of the pension plans established by the *Public Service Superannuation Act*, the *Canadian Forces Superannuation Act* and the *Royal Canadian Mounted Police Superannuation Act*.

Paragraph 8503(3)(*b*) prohibits the continued accrual of benefits under a defined benefit provision of an RPP after retirement benefits have commenced to be paid to the member under the provision or any other defined benefit provision of the RPP. The prohibition also applies on a cross-plan basis where an employer who participates in one plan also participates (or does not deal at arm's length with an employer who participates) in the other plan.

Paragraph 8503(13)(*a*) provides that the cross-plan prohibition on benefit accruals does not apply in the case of the pension plan established by the *Public Service Superannuation Act* where retirement benefits have commenced to be paid under the *Canadian Forces Superannuation Act* or the *Royal Canadian Mounted Police Superannuation Act*.

Paragraph 8503(3)(*c*) allows lifetime retirement benefits under a defined benefit provision of an RPP to be paid to a plan member without reduction on account of early retirement only if the member meets specified criteria relating to age, length of service or a combination thereof, or is totally and permanently disabled. Paragraph 8503(13)(*b*) provides that this rule does not apply to the pension plan established by the *Canadian Forces Superannuation Act*.

Artificially Reduced Pension Adjustment
ITR
8503(14)

Subsection 8503(14) contains an anti-avoidance rule designed to prevent the provision of retirement benefits that are inconsistent with the pension adjustments (PAs) that have been reported in respect of a member, where this result is achieved by manipulating pensionable earnings. For example, if bonus pay is excluded from pensionable earnings, arranging for bonuses to be a large share of total remuneration for a number of years and then replacing bonuses by regular pensionable earnings for a sufficient period to achieve a high pension level under a final or best average defined benefit provision would result in PAs during the years that do not properly reflect the true level of benefits earned under the defined benefit provision. As a result of the low PAs, the plan member would be able to make RRSP contributions that are excessive in light of the benefits actually provided under the plan.

Subsection 8503(14) provides that where a member's remuneration from an employer is manipulated in this way and it can reasonably be considered that one of the main reasons was to reduce the member's PA for a year, the member is considered to have been connected with the employer while employed by the employer and the member is considered not to have received any remuneration that is excluded from pensionable earnings. The effect of this rule is that the maximum pension rule in subsection 8504(1) will apply to the member on the basis of updated career average earnings rather than best average earnings, and earnings will not include amounts that are not taken into account for the purpose of determining PAs.

Past Service Employer Contribution
ITR
8503(15)

Subsection 8505(8) provides an exemption from this rule in certain circumstances where past service benefits are provided in connection with a downsizing program. For further details, reference may be made to the commentary in subsection 8505(8).

Subsection 8503(15) contains a rule intended to prevent an employee from agreeing to reduced salary or wages or a reduced retiring allowance, or to forego some other payment or benefit, in return for employer-funded past service pension benefits in respect of pre-1990 service. Employer contributions made to an RPP in these circumstances are, in substance, employee contributions. Such an arrangement could circumvent the limits on past service employee contributions in subsection 147.2(4) of the Act. The rule is intended to apply only where individual employees agree to forego salary or wages or other cash payments or benefits; thus, it would not apply where a union negotiates additional past service pension benefits instead of a larger increase in rate of pay.

Subsection 8503(15) applies where, with the consent of an employee, an employer makes a past service contribution to an RPP to fund benefits provided to the employee in respect of pre-1990 service, and it is reasonable to consider that the contribution is made in lieu of a payment or benefit to which the employee would otherwise be entitled. The subsection provides that where such a contribution is made, the plan becomes a revocable plan. This permits the Minister of National Revenue to revoke the registration of the plan pursuant to subsections 147.1(11) to (13) of the Act.

Subsection 8505(8) provides an exemption from this rule in certain circumstances where past service benefits are provided in connection with a downsizing program. For further details, reference may be made to the commentary on subsection 8505(8).

Subsection 8503(15) is applicable with respect to contributions made before December 11, 1989, where the contributions have not been approved before that date by the Minister of National Revenue under paragraph 20(1)(s) of the Act, and contributions made after December 10, 1989.

Maximum Benefits
ITR
8504

Section 8504 contains three limits applicable with respect to retirement benefits provided under a defined benefit provision of an RPP:

- the limit in subsection 8504(1) applies to the amount of lifetime retirement benefits,
- the limit in subsection 8504(5) applies to the combined amount of lifetime retirement benefits and bridging benefits payable before age 65, and
- the limit in subsection 8504(6) applies to the amount of lifetime retirement benefits in respect of pre-1990 service where the benefits

become provided after June 7, 1990 (and are not excepted from the limit).

Transition rules for the application of these limits are contained in section 8509.

Lifetime Retirement Benefits
ITR
8504(1)

Subsection 8504(1) restricts the amount of lifetime retirement benefits that can be provided under a defined benefit provision of an RPP. Separate limits are specified for the year in which a pension commences to be paid (in paragraph 8504(1)(*a*)) and for subsequent years (in paragraph 8504(1)(*b*)). Rules relating to these limits are contained in subsections 8504(2) to (4), (10) and (13). In particular, subsection 8504(10) allows certain benefits to be disregarded for the purpose of this maximum pension rule.

The maximum pension rule applies regardless of the age at which a member's pension commences to be paid. However, the early retirement rule in paragraph 8503(3)(*c*), when combined with the maximum pension rule, results in a lower maximum pension in the case of retirements to which paragraph 8503(3)(*c*) applies.

The maximum pension rule applies in respect of benefits provided under a single defined benefit provision. Unlike the current rule in paragraph 9(*g*) of Information Circular 72-13R8, it does not apply to the aggregate of such benefits and benefits under a money purchase provision or any other defined benefit provision. Control over aggregate benefits is provided by the PA limits in subsections 147.1(8) and (9) of the Act.

For a plan member whose pensionable service includes no period after 1990 during which the member was a person connected with an employer who participates in the plan, paragraph 8504(1)(*a*) provides that the maximum level of lifetime retirement benefits (expressed on an annualized basis) for the year in which the pension commences to be paid is the lesser of:

> (*a*) 2 per cent of highest average indexed compensation times the number of years of pensionable service, and
>
> (*b*) the defined benefit limit for the year times the number of years of pensionable service.

The rules for computing the highest average indexed compensation of a member are in subsection 8504(2). In general terms, this amount is equal to the average of the best three years (not necessarily consecutive) of indexed compensation of the member. Indexed compensation for a year is compensation for the year (as defined in subsection 147.1(1) of the Act) adjusted to reflect increases in the average wage to the year of pension commencement. For further details, see the commentary on subsection 8504(2).

The defined benefit limit (as defined in subsection 8500(1)) is equal to $1722.22 for years before 1995. This amount is 1/9th of the 1994 money purchase limit of $15,500. For years after 1994, the defined benefit limit will be 1/9th of the money purchase limit for the year. Thus, after 1994, the defined benefit limit will increase in accordance with increases in the average wage.

The maximum pension limit is determined without restricting the number of years of pensionable service that may be taken into account. The existing limit in paragraph 9(*g*) of Information Circular 72-13R8 is based on credited service to a maximum of 35 years. This restriction is being removed in recognition of the fact that a member who is prevented from accruing pension benefits can obtain roughly comparable tax assistance by making RRSP contributions.

A special limit applies if a plan member is, at any time after 1990, connected with an employer (as defined in subsection 8500(3)). In this case, the maximum level of lifetime retirement benefits (expressed on an annualized basis) for the year in which the pension commences to be paid is the sum of:

> (*a*) the maximum pension described above, but computed without including as pensionable service any year after 1990 in which the member is connected, at any time, with a participating employer, and
> (*b*) for each year after 1990 in which the member is connected, at any time, with a participating employer, the lesser of:

- 2 per cent of the member's indexed compensation for the year, and

- the defined benefit limit for the year times the fraction of the year that is pensionable service.

For this purpose, a member's indexed compensation for a year is the member's compensation for the year (as defined in subsection 147.1(1) of the Act) adjusted to reflect increases in the average wage to the year of pension commencement.

The special limit for connected persons replaces the provisions of paragraph 8(*e*)(vii)(D) of Information Circular 72-13R8, which control the pension payable to controlling shareholders in a different way. That paragraph provides that service in a year can qualify as eligible service only if the person's earnings are at least the lesser of $65,000 and 75 per cent of the person's average earnings for the prior best three consecutive years.

After lifetime retirement benefits commence to be paid, paragraph 8504(1)(*b*) provides that the benefits are subject to a limit equal to the maximum pension in the year of commencement, adjusted from that time to reflect increases in the average Consumer Price Index (as defined in subsection 8500(1)).

Where retirement benefits are defined in such a way that the benefits are reduced at a specified age, such as age 65, only the reduced benefits are considered to be lifetime retirement benefits. Thus, only such benefits are subject to the limits in subsection 8504(1). The additional benefits payable on a temporary basis (that is, those that are discontinued at the specified age) are considered to be bridging benefits and are subject to the limit in paragraph 8503(2)(*b*).

Paragraph 9(*g*) of Information Circular 72-13R8 provides that the maximum pension limit does not apply where a pension is $300 or less per year of pensionable service. As the new structure of the pension and RRSP limits, including the seven-year carry forward of unused deduction room, provides considerable opportunity for tax-assisted saving by all taxpayers with earned income, continuation of the minimum pension provision is not considered to be necessary and no such provision is included in the new rules.

Highest Average Compensation
ITR
8504(2)

Subsection 8504(2) specifies how to compute the highest average indexed compensation of a plan member for the purpose of a defined benefit provision of an RPP. This amount is relevant in determining, under subsection 8504(1), the maximum lifetime retirement benefits that may be paid to the member. In most cases, this amount is equal to 1/3rd of the member's total indexed compensation for the three (not necessarily consecutive) 12-month periods of highest indexed compensation. The total indexed compensation of the member for any month is the total compensation received by the member for the month from employers who participate under the defined benefit provision for the benefit of the member, adjusted to reflect increases after the year, or after 1986, if later, in the average wage (as defined in subsection 147.1(1) of the Act).

"Compensation" is defined in subsection 147.1(1) of the Act and includes compensation that is prescribed by section 8507. For the purpose of subsection 8504(2), compensation need not be for periods of pensionable service. For example, if a plan limits pensionable service to 35 years, compensation after this limit is reached may be taken into account in determining highest average indexed compensation.

If a member of an RPP has not been employed for three 12-month periods by an employer who participates in the plan, paragraph 8504(2)(*b*) provides that the highest average indexed compensation of the member is equal to the average of the member's total indexed compensation for each month of employment. For this purpose, total indexed compensation has the same meaning as described above.

Alternative Compensation Rules
ITR
8504(3)

Subsection 8504(3) contains two rules that modify the rules in subsection 8504(2) for determining the highest average compensation of a plan member. The rules in subsection 8504(3) are alternative rules; the maximum pension condition is considered to be satisfied if it is satisfied with the application of either or both of these rules.

Under the rules in subsection 8504(2), a member's highest average compensation is determined based on the compensation actually received by the member in each year (plus compensation prescribed for the year by section 8507). The rule in paragraph 8504(3)(*a*) permits bonuses and back-pay to be treated, for the purpose of determining whether lifetime retirement benefits satisfy the maximum pension rule, as if they had been received in the years in respect of which they are paid.

To apply the rules in subsection 8504(2), it is necessary to determine the compensation paid to a member for each month. Paragraph 8504(3)(*b*) permits this to be done by prorating calendar year compensation, thereby avoiding the necessity of keeping records on a month-by-month basis.

Part-Time Employees
ITR
8504(4)

Subsection 8504(4) provides an alternative method for determining the maximum pension that may be paid to a plan member who has, at any time, worked on a part-time basis. Under this method, the normal rules for determining the maximum pension of a member are modified in two respects:

- the member's compensation is the amount that it is reasonable to consider would have been received by the member had the member worked on a full-time basis, and

- the amount of pensionable service is determined based on the services rendered by the member as a proportion of services that would have been rendered had the member worked on a full-time basis.

The normal rules determine the maximum pension based on actual compensation and on the duration of the periods in which services are rendered, without regard to whether the services are rendered on a full-time or part-time basis.

Paragraphs 8504(4)(*c*) and (*d*) contain two rules for the purposes of subsection 8504(4). Paragraph 8504(4)(*c*) applies where a member of a pension plan has rendered services throughout a period to two or more employers who participate in the plan. In such a situation, those employers are treated as the same employer. Thus, if an individual works on a half-time basis for each of his or her employers who participate in a plan, the individual would not be considered to be a part-time employee.

Paragraph 8504(4)(*d*) deals with the following periods throughout which a member does not render services on a regular basis: an eligible period of reduced pay or temporary absence and a period of disability. It provides that the rules in paragraphs 8504(4)(*a*) and (*b*) apply as if the plan member had rendered services on a regular basis throughout such periods and had received remuneration at a rate commensurate with his or her previous rate of pay.

Retirement Benefits Before Age 65
ITR
8504(5)

Subsection 8504(5) restricts the amount of retirement benefits (lifetime retirement benefits plus bridging benefits) that can be paid under a defined benefit provision of an RPP before a member reaches age 65. The effect of this subsection is to impose an additional limit on bridging benefits where a member's lifetime retirement benefits are at or close to the maximum level permitted by subsection 8504(1).

Paragraph 8504(5)(*a*) provides that the level of a member's retirement benefits (expressed on an annualized basis) for the year in which the member's pension commences to be paid cannot exceed

> (*a*) the defined benefit limit for the year times the number of years of pensionable service, plus
>
> (*b*) 25 per cent of a three-year average of the Year's Maximum Pensionable Earnings (YMPE), prorated if the member has less than 35 years of pensionable service.

The defined benefit limit (as defined in subsection 8500(1)) is equal to $1,722.22 for years before 1995. For years after 1994, the defined benefit limit will be 1/9th of the money purchase limit for the year.

Paragraph 8504(5)(*b*) limits the amount of retirement benefits payable in a particular year after the benefits commence to be paid to the amount determined under paragraph 8504(5)(*a*) adjusted to reflect the increase in the average Consumer Price Index (as defined in subsection 8500(1)) from the year of commencement to the particular year.

Pre-1990 Benefits
ITR
8504(6)

Subsection 8504(6) restricts the amount of lifetime retirement benefits that can be provided under a defined benefit provision of an RPP to a member in respect of pre-1990 service. The restriction applies to the benefits provided in respect of a particular year only if subsection 8504(7) does not exempt the benefits from the application of subsection 8504(6). The most important exemption is for the benefits in respect of a year where all or part of the benefits become provided before June 8, 1990.

Subsection 8504(6) limits the amount of a member's lifetime retirement benefits (expressed on an annualized basis) provided in respect of a particular year before 1990 to 2/3 of the defined benefit limit for the year in which the benefits commence to be paid (or $1,150, if greater). This limit applies to the amount of benefits payable for the year in which benefits commence to be paid. For subsequent years, the limit is increased in accordance with increases in the average Consumer Price Index (as defined in subsection 8500(1)). If the member does not have a full year of pensionable service in the particular year, the limit is reduced based on the proportion of the year that is pensionable service.

The defined benefit limit (as defined in subsection 8500(1)) is equal to $1,722.22 for years before 1995. Hence, pre-1990 benefits that are subject to the limit in subsection 8504(6) cannot exceed $1,150 for each year of service, if the benefits start to be paid before 1995. For years after 1994, the defined benefit limit will be 1/9th of the money purchase limit for the year.

Limit Not Applicable
ITR
8504(7)

Subsection 8504(7) exempts certain benefits from the limit in subsection 8504(6) on the amount of lifetime retirement benefits that may be provided under a defined benefit provision of an RPP in respect of pre-1990 service. Lifetime retirement benefits provided to an individual in respect of a particular year are not subject to the limit if

> (*a*) at any time before June 8, 1990, all or part of the particular year was pensionable service of the individual under a defined benefit provision of an RPP;

(*b*) on June 7, 1990, the individual was entitled to be provided with benefits under a defined benefit provision of an RPP in respect of all or part of the particular year, and the entitlement was documented in writing;

(*c*) defined benefits accrued to the individual under an RPP in respect of an earlier year, but did not accrue in the particular year because the individual was disabled or on a leave of absence;

(*d*) before June 8, 1990, contributions were made by, or on behalf of, the individual under a money purchase provision of an RPP in respect of the particular year; or

(*e*) contributions were made in the year by, or on behalf of, the individual to a DPSP.

The exception in (*a*) applies, for example, to all benefits that became provided before June 8, 1990. It also applies to benefits that become provided after June 7, 1990 in respect of a year, if the individual had ever been credited with benefits in respect of the year under a defined benefit RPP before June 8, 1990 and regardless of whether the individual still has an entitlement to those previously credited benefits.

The exception in (*b*) is intended to apply, for example, where an employer has, before June 8, 1990, promised a pension to an employee in respect of pre-1990 service, but the RPP has not been amended to actually provide that pension. It also applies where an employee has entered into a written agreement with an employer to purchase past service pension benefits. In this situation the exception applies even though the employee's right to the past service benefits was, on June 7, 1990, contingent upon the employee making contributions in respect of the benefits.

The exception in (*c*) is relevant, for example, where an employee elects after June 7, 1990 to make contributions to a defined benefit RPP, and thus to be provided with benefits, in respect of a pre-1990 leave of absence that spans a whole year, if the absence follows a period in which benefits accrued to the individual under the plan.

Cross-Plan Restrictions
ITR
8504(8)

Subsection 8504(8) contains a rule that applies where an individual is entitled to benefits under two or more RPP defined benefit provisions. The rule ensures that the benefit limits in subsections 8504(5) and (6) apply to the total benefits provided to the individual.

More specifically, subsection 8504(8) provides that in determining whether the benefits provided to an individual under a particular defined benefit provision comply with the limits in subsections 8504(5) and (6), all benefits provided to the individual under associated defined benefit provisions are to be assumed to be provided under the particular provision.
Subsection 8504(9) defines associated provisions for this purpose.

Associated Defined Benefit Provisions
ITR
8504(9)

Subsection 8504(9) specifies when one defined benefit provision is considered to be associated with another defined benefit provision. Pursuant to subsection 8504(8), benefits under associated provisions must be taken into account in determining whether the benefits provided to an individual under a particular defined benefit provision comply with the limits in subsections 8504(5) and (6).

Defined benefit provisions that are in the same pension plan are always associated. Defined benefit provisions in separate plans are associated if an employer who participates in one plan also participates, or does not deal at arm's length with an employer who participates, in the other plan.

Subsection 8504(9) also provides that a defined benefit provision in one pension plan ("Provision A") is associated with a defined benefit provision in another plan ("Provision B") if an individual is entitled to benefits under both provisions and the individual, or a person with whom the individual does not deal at arm's length, can determine the benefits provided under Provision B. This rule would apply, for example, where Provision A is in a broad-based plan maintained by an employer with whom the individual deals at arm's length, while Provision B is in a plan maintained by a company of which the individual is the controlling shareholder. It should be noted that if the rule applies so that Provision A is associated with Provision B, it does not necessarily follow that Provision B is associated with Provision A.

Hence, subsection 8504(8) may apply to require the benefits under Provision A to be taken into account in determining whether the benefits under Provision B are acceptable, but may not apply in the other direction.

Where a defined benefit provision ("Provision A") is associated with another defined benefit provision ("Provision B") under the normal rules in subsection 8504(9) but it is unreasonable to expect the benefits under Provision B to be coordinated with the benefits under Provision A, the subsection provides that the Minister of National Revenue may agree that Provision A is not associated with Provision B.

Excluded Benefits
ITR
8504(10) to (12)

Subsection 8504(10) excludes the following benefits from lifetime retirement benefits for the purpose of the maximum pension rule in subsection 8504(1):

- additional lifetime retirement benefits that are payable to a plan member because the member is totally and permanently disabled, and

- additional lifetime retirement benefits payable as a consequence of an actuarial (or less favourable) increase in the pension to reflect the postponement of payment of the pension after age 65.

The additional benefits referred to in the case of a totally and permanently disabled member will normally arise because the member's pension is determined on a projected basis.

Subsection 8504(11) excludes the following benefits from retirement benefits for the purpose of the limit in subsection 8504(5) on the amount of benefits that can be paid before age 65:

- additional lifetime retirement benefits that are payable to a plan member because the member is totally and permanently disabled, and

- bridging benefits payable at the option of a plan member in place of a proportion of the lifetime retirement benefits otherwise payable to the member, where the amount of bridging benefits is determined on an actuarially equivalent (or less favourable) basis.

Subsection 8504(12) excludes for the purpose of the restriction in subsection 8504(6) on the amount of lifetime retirement benefits in respect of pre-1990 service, additional lifetime retirement benefits payable as a consequence of an actuarial (or less favourable) increase in the pension to reflect the postponement of payment of the pension after age 65.

Alternative CPI Indexing
ITR
8504(13) to (15)

The maximum pension limit in paragraph 8504(1)(*b*), which applies after the year in which a pension commences to be paid, depends on the increase in the average Consumer Price Index (CPI). Subsection 8504(13) permits a plan to use, in place of the ratio described in paragraph 8504(1)(*b*), a measure of the change in the CPI that is substantially similar to that ratio. This would permit, for example, the use of a ratio equal to the CPI for the November preceding the year for which the ratio is determined divided by the CPI for the November immediately preceding the year in which a pension commenced to be paid.

Subsections 8504(14) and (15) provide similar flexibility with respect to the measurement of inflation for the purposes of the limits in paragraph 8504(5)(*b*) and subsection 8504(6), respectively.

Additional Benefits on Downsizing
ITR
8505

Section 8505 allows otherwise non-permissible benefits to be provided under a defined benefit provision of an RPP where the benefits are provided in connection with a downsizing program that has been approved by the Minister of National Revenue. Subsection 8505(3) accommodates additional lifetime retirement benefits based on "deemed" years of service -- for example, additional benefits computed as if a terminating employee had worked to age 65. Subsection 8505(4) permits more favourable early retirement reductions to be used in computing benefits.

Subsections 8505(3) and (4) are relevant only where the downsizing benefits do not comply with the condition in paragraph 8503(3)(*a*) (eligible service) or the condition in paragraph 8503(3)(*c*) (reduction on account of early retirement). They have no application in the case of a downsizing program that does not involve any "offside" benefits.

Subsections 8505(3) and (4) do not apply with respect to pre-1992 benefits provided under a grandfathered plan (as defined in subsection 8500(1)), since such benefits are not subject to the conditions in paragraphs 8503(3)(*a*) and (*c*). However, such benefits are required to be acceptable to the Minister. It can be expected that the Minister will apply similar rules to those in section 8505 in determining whether to allow special pre-1992 benefits to be provided under a grandfathered plan pursuant to a downsizing.

Section 8505 contains two further rules applicable with respect to approved downsizings:

- subsection 8505(7) excludes from the application of the maximum pension rules in subsections 8504(1) and (5) any benefits which subsection 8505(3) allows to be provided, and

- subsection 8505(8) provides an exception to the rule in subsection 8503(15) regarding employer contributions to fund pre-1990 past service benefits

Downsizing Program
ITR
8505(1)

Subsection 8505(1) defines the expression "downsizing program" for the purposes of section 8505. A downsizing program consists of the steps taken by an employer to reduce the size of the employer's workforce, including the termination of employees, the offer of special benefits to employees who voluntarily terminate their employment, and the provision of special benefits to employees who are required to terminate their employment.

Applicability of Downsizing Rules
ITR
8505(2)

The special rules in section 8505 apply only with respect to benefits that are provided pursuant to an "approved downsizing program" to a "qualifying individual". These expressions are defined in subsection 8505(2).

Paragraph 8505(2)(*a*) provides that an approved downsizing program is a downsizing program in respect of which the Minister of National Revenue has approved the application of section 8505. It is expected that the

Minister will have regard to a number of factors in deciding whether to give such an approval, including

- the anticipated size of the reduction in the employer's workforce in one or more localities;
- the duration of the period over which the reduction is to be effected;
- the extent to which the downsizing involves employees of all earnings levels, rather than just higher-paid employees; and
- the degree to which termination benefits (cash payments and additional pension benefits) provided to higher-paid employees are more favourable than benefits provided to lower-paid employees.

Paragraph 8505(2)(*b*) defines a qualifying individual to be an individual whose employment has terminated while a downsizing program is in effect and in respect of whom the Minister has approved the application of section 8505. It is expected that the Minister's approval will be given for those employees in localities that are significantly affected by a downsizing. The definition of a qualifying individual does not include a person who was at any time connected (as defined in subsection 8500(3)) with the employer from whom the person terminated employment.

Paragraph 8505(2)(*c*) provides that the "specified day" in respect of an approved downsizing program is the date designated by the Minister. If no date has been designated, it is two years after the date the Minister approves the application of subsection 8505 with respect to the program. The specified day is referred to in subparagraph 8505(3)(*c*)(ii).

Additional Lifetime Retirement Benefits
ITR
8505(3)

Subsection 8505(3) permits lifetime retirement benefits to be provided under a defined benefit provision of an RPP even though the benefits do not comply with the condition in paragraph 8505(3)(*a*). That condition restricts the lifetime retirement benefits that may be provided under a defined benefit provision to benefits that are in respect of periods of employment or certain other periods. Subsection 8505(3) enables an individual's lifetime retirement benefits to be determined, for example, as if the individual had continued in employment. It also enables additional lifetime retirement benefits to be provided without being linked in any way to service.

Subsection 8505(3) applies only where the otherwise non-permissible lifetime retirement benefits (the "special retirement benefits") are provided to a qualifying individual pursuant to an approved downsizing program. In addition, the following conditions must be satisfied:

(*a*) the individual must be at least 55 years of age on termination of employment;

(*b*) the individual's pension cannot start to be paid while the individual is employed by any employer who participates in the plan;

(*c*) the individual's pension must start to be paid no later than the specified day (as defined in paragraph 8505(2)(*c*));

(*d*) the plan must provide for the special retirement benefits to terminate if the individual is re-employed or otherwise commences to render services to a former employer (as described in subsection 8505(5));

(*e*) the plan must not allow the individual to receive a lump sum payment in lieu of a pension, except where the individual's life expectancy is significantly shorter than normal; and

(*f*) except as otherwise permitted by the Minister, special retirement benefits must not be provided to the individual under any other defined benefit provision.

Paragraph 8505(3)(*d*) provides that the maximum level of lifetime retirement benefits (expressed on an annualized basis) that can be paid to an individual in accordance with subsection 8505(3) is, in the year in which the benefits commence to be paid, the product of

(*a*) the lesser of the defined benefit limit for the year (as defined in subsection 8500(1)) and 2 per cent of the individual's highest average indexed compensation (as computed under subsection 8504(2))

and

(*b*) the number of years from the time the individual terminates employment to the individual's 65th birthday, subject to a maximum of 7 years.

In subsequent years, the lifetime retirement benefits can be increased to reflect increases in the average Consumer Price Index (as defined in subsection 8500(1)).

This limit is analogous to the main limit on lifetime retirement benefits, which is in subsection 8504(1). Reference may be had to the commentary on that subsection for a description of the defined benefit limit and of highest average indexed compensation.

Early Retirement Reduction
ITR
8505(4)

Subsection 8505(4) provides that where a qualifying individual terminates employment pursuant to an approved downsizing program, the condition in paragraph 8503(3)(*c*) (reduction on account of early retirement) applies with respect to the individual's benefits as if the individual were employed in a public safety occupation. Consequently, lifetime retirement benefits can be paid without reduction on account of early retirement if the benefits commence to be paid on or after the earliest of

> (*a*) the day the individual attains age 55;
>
> (*b*) the day on which the individual has (or would have if the individual continued in employment) 25 years of early retirement eligibility service; and
>
> (*c*) the day on which the aggregate of the member's age and early retirement eligibility service equals (or would equal if the individual had continued in employment) 75.

Where a pension commences prior to the earliest of the days set out above, the level of the individual's lifetime retirement benefits must be reduced by at least 3 per cent per year that the commencement date precedes the earliest day on which an unreduced benefit could have been paid.

Subsection 8505(4) applies only where the more favourable early retirement reduction is provided as part of an approved downsizing program. Moreover, it applies only if the plan provides for the individual's pension to be recalculated, if the individual is re-employed or otherwise commences to render services to a former employer (as described in subsection 8505(5)), to comply with the condition in paragraph 8503(3)(*c*) applicable to benefits provided to persons who are not in public safety occupations.

Re-Employment
ITR
8505(5)

Subsections 8505(3) and (4) require that any benefits payable under an RPP to an individual that are permissible only by virtue of those subsections cease to be paid if a circumstance described in subsection 8505(5) occurs. This requirement ensures, to some degree, that benefits that are outside the normal limits are not paid to an individual who has not withdrawn from the workforce. The circumstances set out in subsection 8505(5) are the following:

> (*a*) the individual returns to employment with an employer who participates in the RPP or with an employer related to an employer who participates in the plan (section 251 of the Act defines "related persons");
>
> (*b*) the individual provides services as an independent contractor to an employer who participates in the RPP or to a related employer; or
>
> (*c*) the individual provides, through a corporation with which the individual is connected (as defined in subsection 8500(3)), services to an employer who participates in the RPP or to a related employer.

As an exception, subsection 8505(5) does not include the circumstances where an individual, whether directly or through a connected corporation, provides services pursuant to an agreement to do so for a period not exceeding 6 months. This exception applies only if the Minister has agreed that the services can be ignored for the purposes of the subsection. This will enable an employer to obtain the services of a former employee for a short period of time without any adverse effect on the individual's pension benefits. In particular, it is intended to accommodate the situation where an employer unexpectedly requires, on a short-term basis, the services of a former employee who terminated employment pursuant to a downsizing program.

Alternative CPI Indexing
ITR
8505(6)

Paragraph 8505(3)(*d*) limits the amount of additional lifetime retirement benefits that subsection 8505(3) permits to be provided under a defined benefit provision of an RPP. The limit allows the benefits to be cost-of-living adjusted and, for this purpose, measures inflation by the increase in the average Consumer Price Index (as defined in subsection 8500(1)). Subsection 8505(6) allows an alternative measure of inflation to be used, as long as the alternative measure is based on the Consumer Price Index and is substantially similar to that in paragraph 8505(3)(*d*). The rule in subsection 8505(6) is analogous to the rule in subsection 8504(13) that applies for the purposes of the maximum pension limitation in paragraph 8504(1)(*b*).

Exclusion from Maximum Pension Rules
ITR
8505(7)

Subsection 8505(7) provides that any lifetime retirement benefits that are permissible only by reason of subsection 8505(3) are to be ignored in applying the maximum pension restrictions in subsections 8504(1) and (5). Such benefits are subject to a separate restriction imposed by paragraph 8505(3)(*d*).

Exemption from Past Service Contribution Rule
ITR
8505(8)

Subsection 8503(15) contains a rule intended to prevent an employee from agreeing to forego a cash payment in return for employer-funded past service pension benefits in respect of pre-1990 service. Subsection 8505(8) provides an exemption from this rule where the benefits are provided to a qualifying individual pursuant to an approved downsizing program. This will enable an employer who is downsizing to offer employees a choice between a retiring allowance and enhanced pension benefits.

Money Purchase Provisions
ITR
8506

Section 8506 describes the benefits that may be provided under a money purchase provision of a pension plan and contains conditions applicable to a plan that has a money purchase provision.

A "money purchase provision" is defined in subsection 147.1(1) of the Act. In order for terms of a pension plan to be regarded as a money purchase provision, they must provide for a separate account to be maintained in respect of each plan member, and all benefits in respect of a member must be benefits that can be provided by the amount in the member's account. Where the terms do not satisfy these conditions, they will be regarded as a defined benefit provision and thus subject to all the conditions in sections 8503 and 8504.

Permissible Benefits
ITR
8506(1)

Subsection 8506(1) describes, for the purposes of paragraph 8502(*c*), the benefits that may be provided under a money purchase provision of an RPP. The permissible benefits differ in some respects from the benefits which are permitted by subsection 8503(2) to be provided under a defined benefit provision of an RPP. This difference is a reflection of the fact that the benefits that can be provided under a money purchase provision are limited by the contributions and earnings available to fund the benefits; ancillary benefits or indexing can be provided only if retirement benefits are correspondingly reduced. This same trade-off of benefits need not exist in the case of a defined benefit provision.

Lifetime Retirement Benefits
ITR
8506(1)(*a*)

Paragraph 8506(1)(*a*) allows lifetime retirement benefits (as defined in subsection 8500(1)) to be paid under a money purchase provision of an RPP. The payments must be equal periodic amounts except where they are reduced after the death of the member's spouse or are adjusted for inflation. Where lifetime retirement benefits are paid under an annuity purchased from an insurance company, paragraph 8506(1)(*a*) allows the annuity to be adjusted in any way that an RRSP may be adjusted, as set out in subparagraphs 146(3)(*b*)(iii) to (v) of the Act. These adjustments may be in the form of:

- a fixed annual increase of up to 4 per cent per annum;

- adjustments which reflect, in whole or in part, changes in the Consumer Price Index;

- adjustments linked to the return on, or value of, a pool of investment assets; or

- adjustments linked to increases and decreases in generally available Canadian market interest rates.

Where lifetime retirement benefits are paid from the plan (as permitted by subparagraph 8506(2)(*g*)(ii)), any inflation adjustments must be similar to the above-described adjustments and acceptable to the Minister of National Revenue.

Bridging Benefits
ITR
8506(1)(*b*)

Paragraph 8506(1)(*b*) permits an RPP to provide bridging benefits under a money purchase provision to a plan member. The bridging benefits must end no later than the end of the month following the month in which the member attains 65 years of age. There is no limit to the level of bridging benefits which may be provided.

Guarantee Period
ITR
8506(1)(*c*)

Paragraph 8506(1)(*c*) allows retirement benefits payable under a money purchase provision of an RPP to be guaranteed for up to 15 years. This means that, after the death of a member who has commenced to receive retirement benefits, the retirement benefits may continue to be paid to one or more beneficiaries for a period ending no later than 15 years after the commencement of the member's benefits. For each month, the total of the payments to beneficiaries must not exceed the retirement benefits that would have been payable to the member had the member survived. By virtue of paragraph 8506(1)(*i*), an RPP may permit or require guaranteed retirement benefits to be commuted rather than paid on a periodic basis.

Post-Retirement Surviving Spouse Benefits
ITR
8506(1)(*d*)

Paragraph 8506(1)(*d*) permits an RPP to provide for the payment of survivor benefits under a money purchase provision to a spouse or former spouse of a member who dies after commencing to receive retirement benefits. For this purpose, a spouse or former spouse of a member is a person who was a spouse (as defined in subsection 147.1(1) of the Act) of the member at the time that the benefits commenced to be paid or at any earlier time. Survivor benefits are periodic amounts payable until the death of the surviving spouse or former spouse. Survivor benefits, together with any benefits payable under a guarantee, must not exceed the retirement benefits that would have been payable to the member if the member were alive.

Pre-Retirement Surviving Spouse Benefits
ITR
8506(1)(*e*)

Paragraph 8506(1)(*e*) permits an RPP to provide for the payment of survivor benefits under a money purchase provision to a spouse (as defined in subsection 147.1(1) of the Act) of a member who dies before commencing to receive retirement benefits or to a former spouse of such a member. The survivor benefits may be payable in any form that is permissible for retirement benefits payable to a member, except that a surviving spouse pension to a subsequent spouse of the member's spouse or former spouse is not permitted. Payments must commence to be made to the spouse or former spouse by the end of the year in which he or she reaches age 71 (or, if later, within one year after the death of the member).

Payment from Account
ITR
8506(1)(*f*)

Paragraph 8506(1)(*f*) permits the payment, under a money purchase provision of an RPP, of a lump sum amount up to the balance in a member's account. There are no conditions restricting such payments. For example, all or any part of a member's account could be paid to the member's spouse on marriage breakdown.

Lump Sum Payments on Death Before Retirement
ITR
8506(1)(*g*)

Paragraph 8506(1)(*g*) permits an RPP to provide for the payment of lump sum amounts under a money purchase provision where a member dies before commencing to receive retirement benefits. Since the provision is a money purchase provision, these payments cannot exceed the balance in the member's account. Paragraph 8506(2)(*h*) requires that such lump sums be paid as soon as is practicable after the member's death.

Commutation of Benefits
ITR
8506(1)(*h*) and (*i*)

Paragraph 8506(1)(*h*) allows for the payment of a lump sum under a money purchase provision of an RPP in respect of a member in lieu of other benefits to which the member is entitled, where the lump sum does not exceed the present value of the other benefits. The main purpose of this paragraph is to enable a plan to provide for the commutation of a pension that has commenced to be paid. (However, pension benefits legislation will generally prohibit such a commutation.)

Paragraph 8506(1)(*i*) is similar to paragraph 8506(1)(*h*), and permits the commutation of benefits payable to a beneficiary of a deceased member.

Additional Conditions
ITR
8506(2)

Subsection 8506(2) imposes a number of conditions applicable to an RPP that contains a money purchase provision.

Employer Contributions
ITR
8506(2)(*a*) to (*c*)

Paragraph 8506(2)(*a*) requires that the contributions to be made under a money purchase provision of an RPP by an employer be determined in a manner acceptable to the Minister of National Revenue. This requirement permits the Minister to set guidelines for minimum employer contributions. It is anticipated that such guidelines will specify a 1 per cent minimum contribution for a stand-alone money purchase plan and no minimum contribution for a money purchase provision which is supplementary to a defined benefit provision. This will accommodate voluntary employee money purchase contributions to a plan containing a defined benefit provision.

The Regulations do not directly limit contributions under money purchase provisions. However, such contributions are indirectly limited through the application of the PA limits in subsections 147.1(8) and (9) of the Act. For further details, reference may be made to the commentary on those subsections.

Paragraph 8506(2)(*b*) requires that each contribution made by an employer under a money purchase provision consist only of amounts paid in respect of specific plan members. Thus, unallocated contributions cannot be made under a money purchase provision.

Paragraph 8506(2)(*c*) prohibits an employer from making contributions under a money purchase provision at any time that there is a surplus under the provision. A "surplus" under a money purchase provision of an RPP (as defined under subsection 8500(1)) is the unallocated portion of the assets held in respect of the provision determined at a particular time, other than assets reasonably attributable to:

- forfeited amounts (as defined in subsection 8500(1)) under the provision,

- earnings of the plan that are reasonably attributable to forfeited amounts under the provision, or

- earnings of the plan (other than earnings that are reasonably attributable to the surplus under that provision before the particular time) that will be allocated to members as part of the regular allocation of such earnings.

A surplus can be created under a money purchase plan where the plan replaces a defined benefit plan that has assets in excess of the amounts that may be transferred on behalf of each member to the money purchase plan. The transfer of the excess amount is permitted by subsection 147.3(8) of the Act where the excess will be used to satisfy employer obligations to make contributions.

Paragraph 8506(2)(*c*) also prohibits an employer from making contributions after 1991 under a money purchase provision until all pre-1990 forfeitures (and associated investment earnings) have been paid out to employers or reallocated to plan members.

Return of Contributions
ITR
8506(2)(*d*)

Paragraph 8506(2)(*d*) requires an RPP containing a money purchase provision to include a stipulation permitting a contribution made under the provision by a member or an employer to be returned to the contributor in order to avoid the registration of the plan being revoked. It is expected, for example, that contributions would be returned where the PA limits in subsection 147.1(8) of the Act have been violated.

Allocation of Earnings
ITR
8506(2)(*e*)

Paragraph 8506(2)(*e*) requires an RPP containing a money purchase provision to allocate earnings of the plan (other than earnings attributable to forfeited amounts or a surplus under the provision) on a reasonable basis and no less frequently than annually to plan members.

Payment or Reallocation of Forfeited Amounts
ITR
8506(2)(*f*)

Paragraph 8506(2)(*f*) requires that each forfeited amount under a money purchase provision of an RPP and all earnings attributable to it be paid out to employers or reallocated to other members before the end of the calendar year following the calendar year in which the amount was forfeited. However, the time period for the payment or reallocation of a forfeited amount may be extended at the discretion of the Minister of National Revenue under subsection 8506(3).

As an exception, paragraph 8506(2)(*f*) does not apply with respect to amounts forfeited before 1990. Instead, paragraph 8506(2)(*c*) prohibits employer contributions from being made after 1991 until such forfeited amounts have been paid out to employers or reallocated to plan members.

Forfeited amounts reallocated to plan members may be retained in the plan or paid to the members. Forfeited amounts reallocated to a plan member are included in computing the pension credit of the plan member under the money purchase provision, with the exception of an amount that was forfeited before 1990 and reallocated before 1991 or an amount that is paid to a member (and not transferred on the member's behalf to an RPP or RRSP).

Retirement Benefits
ITR
8506(2)(*g*)

Paragraph 8506(2)(*g*) requires that retirement benefits payable under a money purchase provision of an RPP be provided either:

- by means of annuities purchased from a licensed issuer of annuities; or

- under an arrangement acceptable to the Minister of National Revenue.

It is expected that the Minister will accept a self-insured arrangement for paying retirement benefits where the arrangement is, in substance, similar to the purchase of annuities from an issuer of annuities.

Undue Deferral of Payment
ITR
8506(2)(*h*)

Paragraph 8506(2)(*h*) requires that lump sums payable under a money purchase provision of an RPP after the death of a member be paid as soon as practicable after the death of the member.

Reallocation of Forfeitures
ITR
8506(3)

Subsection 8506(3) allows the Minister of National Revenue, on written application of the administrator of an RPP, to extend the time limit imposed by paragraph 8506(2)(*f*) for the reallocation of forfeited amounts under a money purchase provision of the plan. An extension may be granted only where the amount of forfeitures is greater than normal because of unusual circumstances and the RPP provides for a reallocation on a reasonable basis to a majority of the plan members. It is expected that the Minister will grant an extension, for example, where an employer lays off a large group of employees whose rights to employer contributions have not fully vested. Subsection 8506(3) is not intended to allow for the indefinite retention in an RPP of forfeited amounts which cannot be reallocated because plan members have reached their limits with respect to tax-assisted retirement saving.

Periods of Reduced Pay
ITR
8507

Section 8507 contains rules that enable defined benefits to be provided, or money purchase contributions to be made, in respect of a period of disability, a leave of absence or a period of reduced pay as if it were a regular period of employment without violating the PA limits in subsections 147.1(8) and (9) of the Act.

Subsections 147.1(8) and (9) require that PAs not exceed specified limits, including limits that depend on compensation. "Compensation" is defined for this purpose by subsection 147.1(1) of the Act. An individual's compensation is also relevant for the purpose of the maximum pension rule in subsection 8504(1) and the special rule in subsection 8505(3) that permits additional lifetime retirement benefits to be provided on certain downsizings.

Where an individual is employed on a regular basis throughout a year, the individual's compensation for the year from an employer, as defined in subsection 147.1(1) of the Act, will generally be the salary or wages received by the individual from the employer in the year, plus any other amounts (such as the benefit from the use of an automobile) required to be included in computing the individual's income for the year to the extent that the amounts relate to the individual's employment with the employer.

"Compensation" is defined to include prescribed amounts. This is to allow a notional amount of remuneration to be included in respect of periods when an individual's remuneration is reduced because the individual is disabled, on leave of absence or rendering services on less than a regular basis. The inclusion of such amounts in compensation enables benefits to accrue under a defined benefit provision (or contributions to be made under a money purchase provision) as if the individual had not had a reduction in remuneration, without violating the PA limits in subsections 147.1(8) and (9) of the Act.

Section 8507 contains detailed rules for the determination of prescribed amounts. Where an individual is disabled, the prescribed amount is the remuneration that the individual would have received but for the disability, less the individual's actual remuneration. Where an individual's remuneration is less than normal for a period and the period is an eligible period of temporary absence or reduced pay, the prescribed amount is the lesser of:

- the amount by which the individual's remuneration is reduced from its normal level; and
- an amount which ensures that the total amount prescribed in respect of all eligible periods of temporary absence or reduced pay of the individual does not exceed 5 years of full-time equivalent remuneration plus up to an additional 3 years of full-time equivalent remuneration where the individual has taken one or more parenting leaves.

Section 8507 prescribes an amount in respect of an eligible period of temporary absence or reduced pay of an individual only if the individual is provided with benefits under a defined benefit plan (or contributions are made to a money purchase plan) on a special basis -- that is, on a basis that recognizes that the period is not a regular period of employment. This ensures that the limit on the amount that may be prescribed by section 8507 is not affected, for example, by an unpaid leave of absence that is not included in pensionable service.

Compensation is defined on a calendar year basis. Thus, where an eligible period of reduced pay or temporary absence or a period of disability spans more than one calendar year, section 8507 prescribes a separate amount for the portion of the period that is in each year.

The rules in section 8507 do not directly affect the way in which benefits are determined under an RPP for a member who is disabled or on leave of absence. Benefits (or contributions, in the case of a money purchase plan) are determined solely by the plan terms, which may include rules respecting a member's remuneration during a period of disability or leave of absence. However, the plan terms must be such that the PA limits in subsections 147.1(8) and (9) of the Act will not be violated. As described above, the rules in section 8507 are relevant for determining the PA limits since those limits depend on compensation.

Normally it will not be necessary for plan administrators to actually determine the amounts prescribed by section 8507. Instead, plan benefits would be designed so that the PA limits will not be violated, having regard to the additional compensation that may be taken into account by virtue of section 8507. However, if a plan were designed to take maximum possible advantage of the rules in section 8507, it may then be necessary to determine the prescribed amounts since plan benefits in respect of periods of reduced pay and temporary absence would likely depend directly on the rules in that section.

By virtue of subsection 8509(6), a grandfathered plan (as defined in subsection 8500(1)) is not subject to deregistration before 1992 on the failure of the PA of a member to satisfy the limits in subsection 147.1(8) or (9) of the Act (except where money purchase contributions are made to the plan). Nonetheless, amounts are prescribed for 1991 by section 8507 and are taken into account for the purpose of the aggregate limit on amounts that may be prescribed in respect of an individual.

Examples of the application of section 8507 are set out following the description of the section.

Prescribed Compensation
ITR
8507(1)

Subsection 8507(1) prescribes the following amounts as amounts that are to be included in the compensation of an individual for a particular year from an employer:

- where the individual has an eligible period of reduced pay or temporary absence in the year with respect to the employer and the period is a qualifying period (as defined in subsection 8507(3)), the amount determined pursuant to subsection 8507(2) in respect of the period; and

- where the individual has a period of disability in the year, the amount that it is reasonable to expect would have been the individual's remuneration for the period from the employer if the individual had not been disabled (less the individual's actual remuneration from the employer).

Subsection 8507(1) applies commencing with periods in 1991, which is the first year for which the PA limits in subsections 147.1(8) and (9) of the Act are applicable.

Additional Compensation in Respect of Qualifying Period
ITR
8507(2)

Subsection 8507(2) contains the rules for determining the amount that is prescribed by subsection 8507(1) in respect of a qualifying period of an individual in a year with respect to an employer. This amount is the lesser of:

> (*a*) the remuneration that the individual could reasonably be expected to have received from the employer for the period if the individual had rendered services to the employer on a regular basis based on the individual's employment with the employer before the commencement of the complete period of reduced pay (as defined in subsection 8507(7)) of which the qualifying period is a part, and the individual had been paid at a rate of pay commensurate with the individual's rate of pay before the commencement of the complete period of reduced pay, less any remuneration for the qualifying period received by the individual from the employer; and

(*b*) the amount determined by the formula

$$(5 + A + B - C) \times D$$

where

A is the lesser of 3 and the individual's cumulative additional compensation fraction (as defined in subsection 8507(4)) in respect of the employer, determined to the time that is immediately before the end of the qualifying period and determined with regard only to compensation that has been prescribed in respect of periods of parenting (periods of parenting are defined in subsection 8507(3)),

B is, where all or part of the qualifying period is a period of parenting, the lesser of

- 3 minus the amount determined for A, and
- the ratio of the amount determined as described in (*a*) above in respect of the portion of the qualifying period that is a period of parenting to the amount determined for D,

C is the individual's cumulative additional compensation fraction (as defined in subsection 8507(4)) in respect of the employer, determined to the time that is immediately before the end of the qualifying period, and

D is the remuneration that the individual could reasonably be expected to have received from the employer for the whole year if the individual had rendered services to the employer on a full-time basis throughout the year, and the individual had been paid at a rate of pay commensurate with the individual's rate of pay before the commencement of the complete period of reduced pay (as defined in subsection 8507(7)) of which the qualifying period is a part.

In more general terms, the amount determined under subsection 8507(2) in respect of a qualifying period is the additional remuneration that the individual would have earned in the period had he or she rendered services on a regular basis. The total of the amounts that are determined under subsection 8507(2) in respect of an individual is limited to

- 5 years of full-time equivalent remuneration, plus

- the number of years of full-time equivalent remuneration determined under the subsection in respect of periods of parenting, to a maximum of 3 years of full-time equivalent remuneration.

Periods of parenting are defined in paragraph 8507(3)(*b*). In general terms, a period of parenting is the portion of a leave of absence or period of reduced pay that is within 12 months of the birth or adoption of a child.

In effect, the rules provide that, for the purpose of determining whether the PA limits in subsections 147.1(8) and (9) of the Act are satisfied, a member may, throughout his or her career, be regarded as having earned an additional 5 years to 8 years (depending on periods of parenting) of full-time equivalent remuneration during periods of reduced pay or temporary absence. Where an individual changes employers (other than within a group of non-arm's length employers) and the new employer does not participate in the same RPP as the former employer, a new limit is applicable.

As an example of the type of plan terms that are accommodated by subsection 8507(2), a 2 per cent final average earnings plan could provide for up to 5 years of leave of absence to count as credited service. In addition, it could provide for a leave taken within the first 12 months after the birth or adoption of a child (to a maximum of 3 years of such leaves) to be included as credited service without using up the regular 5-year limit. (Any other parenting leaves that are treated as credited service would be taken into account for the purposes of the 5-year limit in the plan.)

Qualifying Periods and Periods of Parenting
ITR
8507(3)

Subsection 8507(3) defines the terms "qualifying period" and "period of parenting" for the purposes of section 8507.

An amount of compensation is prescribed by subsection 8507(1) in respect of a period that is an eligible period of reduced pay or temporary absence only if the period is a qualifying period. Paragraph 8507(3)(*a*) defines a period in a year to be a qualifying period of an individual with respect to an employer if

> (i) the period is an eligible period of reduced pay or temporary absence of the individual with respect to the employer,

(ii) defined benefits are provided to the individual in respect of the period (or money purchase contributions are made by or on behalf of the individual in respect of the period) as if the individual had rendered more services than the actual amount of services rendered or had received a larger amount of remuneration (benefits under, and contributions to, specified multi-employer plans are ignored for the purpose of this condition),

(iii) the individual's pension adjustment (PA) for the year in respect of the employer includes an amount in respect of the benefits (or the contributions),

(iv) no benefits are provided to the individual in respect of the period under a defined benefit provision of an RPP in which the employer does not participate, and

(v) no contributions are made by the individual, or on the individual's behalf, in respect of the period to a money purchase provision of an RPP or a deferred profit sharing plan in which the employer does not participate.

Conditions (ii) and (iii) are included so that compensation is prescribed only in situations where it is likely to be required to ensure compliance with the PA limits. This avoids the unnecessary erosion of the aggregate limit on the amount of compensation that can be prescribed in respect of an individual. For example, there is no need for compensation to be prescribed if an individual who participates in a defined benefit plan is not credited with benefits in respect of a leave of absence, or if benefits are credited on a past service basis and give rise to a past service pension adjustment (PSPA) (because the requirements in subsection 8308(4) for PA treatment are not satisfied). Also, there is no need for compensation to be prescribed where defined benefits are provided under (or money purchase contributions are made to) a plan that is a SMEP, since the PA limits do not apply with respect to such plans.

Conditions (iv) and (v) are included so that an amount will not be prescribed if an individual works for another employer during the period of reduced pay or temporary absence and, as a consequence, participates in another RPP.

The references in paragraph 8507(3)(*a*) to money purchase contributions are expanded, by a special rule, to include forfeitures and surplus that are allocated to an individual.

The aggregate limit on the amount of compensation that can be prescribed in respect of an individual by section 8507, and hence the restriction on the extent to which an RPP may provide benefits in respect of leaves of absence and similar periods, depends on whether the individual has taken any parenting leaves. For this purpose, paragraph 8507(3)(*b*) defines a period of parenting to be all or part of a 12-month period that commences at the birth or adoption of a child. Where an individual takes a leave of absence only part of which falls in such a 12-month period, that portion is regarded as a period of parenting while the rest is considered to be a regular leave of absence.

Cumulative Additional Compensation Fraction
ITR
8507(4)

Subsection 8507(4) defines a quantity that, in conjunction with paragraph 8507(2)(*b*), limits the total of the amounts that will be prescribed in respect of an individual's qualifying periods. Subsection 8507(4) defines the "cumulative additional compensation fraction" of an individual to any time in respect of an employer to be the sum of the additional compensation fractions (as defined in subsection 8507(5)) associated with periods ending at or before that time that are qualifying periods of the individual in calendar years after 1990 with respect to

- the employer,
- any other employer who does not deal at arm's length with the employer, or
- any other employer who participates in an RPP in which the employer participates for the benefit of the individual.

Additional Compensation Fraction
ITR
8507(5)

Subsection 8507(5) defines the "additional compensation fraction" associated with a qualifying period of an individual in a calendar year with respect to an employer as (*a*) the amount determined under subsection 8507(2) in respect of the period (unless the modification described below applies)

divided by

(*b*) the remuneration that the individual could reasonably be expected to have received from the employer for the whole year if the individual had rendered services to the employer on a full-time basis throughout the calendar year at a rate of pay commensurate with the individual's rate of pay before the commencement of the complete period of reduced pay (as defined in subsection 8507(7)) of which the eligible period is part.

Amount (*a*) is modified where the individual has taken a leave of absence from the employer (or renders a reduced level of services to the employer) in order to render services to another employer and the circumstances are such that subsection 8308(7) is applicable. In general terms, subsection 8308(7) contains special rules that apply where an employee who is on loan to another employer from whom the employee receives remuneration continues to accrue benefits under the RPP of the lending employer (or the employee's money purchase account continues to be credited with contributions). The effect of the rules is to treat the borrowing employer for PA purposes as an employer who participates in the plan. For further details, reference may be made to the commentary on subsection 8308(7).

In this situation, amount (*a*) is the amount that would be determined under subsection 8507(2) in respect of the qualifying period if no remuneration were included in respect of the period in which the individual is on loan to the other employer. If the qualifying period consists only of the period of loan, the result is that the additional compensation fraction associated with the period will be nil. This special calculation of the additional compensation fraction is intended to ensure that the "five-year" limit on prescribed compensation is not used up by periods of loan.

Exclusion of Subperiods
ITR
8507(6)

Subsection 8507(6) clarifies that a reference in section 8507 to a qualifying period in a year does not include subperiods of such periods. For example, where a leave of absence extends from July 1, 1991 to March 31, 1992 and the period of leave in each of 1991 and 1992 is a qualifying period, any subperiod such as the period from October 1, 1991 to November 30, 1991 is not considered to be a qualifying period for the purposes of section 8507. Subsection 8507(6) also contains a similar rule for periods of disability.

Complete Period of Reduced Pay
ITR
8507(7)

Subsection 8507(7) defines a "complete period of reduced pay" of an individual with respect to an employer as a period that consists of

- periods of disability of the individual (as defined in subsection 8500(1)), and

- eligible periods of reduced pay or temporary absence of the individual with respect to the employer (as defined in subsection 8500(1)),

and that is not part of a longer such period. This definition is relevant for the purposes of subsection 8507(2). It is used to refer to the full period throughout which an individual's remuneration is lower than normal.

Examples

The following examples illustrate the application of section 8507:

> **Example 37**: Assume that a plan member who normally works on a full-time basis takes an unpaid leave of absence for 8 months in a year. Assume the member earned $12,000 for the year but would have earned $36,000 had the member rendered services on a regular basis throughout the year. Assume that the member participates in a money purchase RPP with a contribution rate of 10 per cent of pay and that contributions are made in respect of the period of temporary absence as though the member had rendered services on a regular basis throughout the year.
>
> The money purchase contribution and, therefore, the PA for the year in respect of the member is $3,600 (=10 per cent of $36,000). The PA limit in respect of the member for the year based on paid remuneration is $2,160 (=18 per cent of $12,000) which is less than the PA. In this case, section 8507 would prescribe an additional amount of compensation of $24,000 so that the PA limit would be $6,480 (=18 per cent of ($12,000 + $24,000)).

The additional compensation fraction would be 0.667 (= $24,000 ÷ $36,000). Assuming that the $24,000 is the first amount prescribed in respect of the individual, the cumulative additional compensation fraction would also be 0.667. Hence, up to 4.333 years of full-time equivalent compensation could still be prescribed by section 8507 in respect of subsequent leaves of absence. Consequently, the individual could take additional unpaid leaves totalling 4.333 years and have money purchase contributions made in respect of those leaves as if the individual's pay had continued at its regular level.

Example 38: A single employer RPP is a "best 3-year average earnings plan" with a benefit rate of 1.5 per cent. The earnings of part-time employees are annualized for the purpose of the benefit formula. Assume that a plan member who regularly works 3 days a week is on leave of absence for 9 months in a year and that the plan provides benefits as if the member had worked on a regular basis throughout the year. Assume that the member earned $6,000 for the year but would have earned $24,000 had the member rendered services on a regular basis throughout the year. The corresponding full-time annual compensation would therefore be $40,000.

The member's benefit accrual for the purpose of determining PA would be $360, determined as follows:

benefit rate x credited service x annualized earnings

$$= .015 \times 3/5 \times \$40{,}000 = \$360.$$

The resulting PA would be $2,240 (= $360 x 9 - $1,000).

The PA limit based on paid remuneration would be $1,080 (= 18 per cent of $6,000). In this case, section 8507 would prescribe an additional amount of compensation of $18,000 so that the PA limit would be $4,320 (=18 per cent of ($6,000 + $18,000)).

The additional compensation fraction would be 0.45, determined as follows:

$$\frac{\text{prescribed compensation}}{\text{full-time equivalent annual compensation}} = \frac{\$18{,}000}{\$40{,}000} = 0.45$$

Salary Deferral Leave Plans
ITR
8508

Section 8508 contains special rules applicable with respect to salary deferral leave plans. These are plans described in paragraphs 6801(*a*) and (*b*) of the Regulations for the purpose of being excluded from the definition of a "salary deferral arrangement" in subsection 248(1) of the Act. By participating in a salary deferral leave plan, an employee is able to defer receipt of salary for tax purposes. Such plans may be used by employees (in co-operation with their employers) to self-fund sabbaticals and other leaves of absence.

Paragraph 8508(*a*) provides that, where an employee defers salary pursuant to a salary deferral leave plan, the period throughout which salary is deferred is an eligible period of reduced pay. This ensures the application of all rules applicable with respect to eligible periods of reduced pay and, in particular, the rules in section 8507 (prescribed compensation).

Paragraph 8508(*b*) provides that, for the purpose of section 8507, the employee's regular rate of pay is the rate that would apply if the employee were not participating in the salary deferral leave plan. Thus, during the deferral period while the employee is still at work, the deferred salary will be regarded as part of the employee's remuneration. While the employee is on a leave of absence and receives the deferred salary, the employee's remuneration will be considered to be the amount that would have been paid had the employee not taken the leave.

Section 8508 is mainly intended to ensure that section 8507 applies where an employee participates in a salary deferral leave plan. As a consequence, benefits can accrue under an RPP to the employee as if the employee did not participate in the salary deferral leave plan (subject to the limits indirectly applicable by virtue of section 8507).

Transition Rules
ITR
8509

Section 8509 contains special transition rules that apply primarily to "grandfathered plans" as defined in subsection 8500(1). In general terms, a pension plan is a grandfathered plan if it is an existing plan (as defined in subsection 8500(1)) that contains a defined benefit provision or if it is a pension plan established to replace benefits under another grandfathered plan. Many of the new rules in Part LXXXV of the Regulations do not apply to grandfathered plans until 1992. Moreover, defined benefits that have accrued prior to 1992 under grandfathered plans will generally be exempt from the rules.

In addition to the transition rules applicable with respect to grandfathered plans, section 8509 contains transition rules relating to

- the limit in subsection 8504(5) on the combined amount of lifetime retirement benefits and bridging benefits payable before age 65 under a defined benefit provision of an RPP,
- the conditions in paragraphs 8503(3)(*g*) (benefit accrual rate) and 8503(3)(*h*) (increase in accrued benefits),
- benefits that commence to be paid before 1992 under a plan that is not a grandfathered plan, and
- benefits payable under a money purchase provision of an RPP.

Prescribed Conditions Applicable Before 1992 to Grandfathered Plan
ITR
8509(1)

Subsection 8509(1) sets out the prescribed conditions that apply prior to 1992 in determining whether a grandfathered plan qualifies for registration. These conditions, which apply in place of the conditions listed in subsection 8501(1), are as follows:

> (*a*) the primary purpose of the plan must be to provide lifetime pensions to individuals in respect of their service as employees (paragraph 8502(*a*));
>
> (*b*) if the plan also provides money purchase benefits,
>
> - those benefits must comply with paragraph 8502(*c*), which requires that the benefits be in accordance with subsection 8506(1), and
> - employer contributions under the money purchase provision must be in accordance with paragraph 8506(2)(*a*), which requires that contributions be determined in a manner acceptable to the Minister of National Revenue;

(*c*) the benefits provided under each defined benefit provision of the plan must be acceptable to the Minister of National Revenue; and

(*d*) the plan must contain any terms that are required by the Minister.

Where pre-1991 benefits become provided after 1988 to a member of a grandfathered plan who is or was connected with an employer who participates in the plan, the benefits are considered not to be acceptable to the Minister if the Minister is not specifically notified in writing that the benefits are provided to such a member. This rule is intended to ensure that the Minister is fully informed when benefits are provided to members connected with participating employers. This rule parallels the rule in paragraph 8503(3)(*e*) which would apply if the plan were not a grandfathered plan.

It is intended that defined benefit provisions which have already been approved by the Minister will continue to be acceptable until 1992. Where benefits do not conform to the registration rules applicable to new plans, the acceptability of amendments to such benefits will be dealt with on a case-by-case basis. For example, an amendment to conform to the requirements of federal and provincial pension benefits legislation will normally be acceptable. In general, amendments that bring a grandfathered plan into closer conformity with the new registration rules will be accepted, while those that move the plan further away from the new rules will not be accepted.

Where an existing plan contains only money purchase provisions, the prescribed conditions referred to in subsection 8501(1) apply commencing in 1989. However, subsection 8509(10) provides a limited exemption from the conditions applicable with respect to the benefits under such a plan. For further details, see the commentary on subsection 8509(10).

Conditions Applicable After 1991 to Benefits Under Grandfathered Plan
ITR
8509(2)

After 1991, grandfathered plans are subject to the prescribed conditions for registration listed in subsection 8501(1). One of these conditions -- the condition in paragraph 8502(*c*) restricting benefits -- requires that defined benefits be in accordance with subsection 8503(2), certain conditions in subsection 8503(3), and section 8504. Subsection 8509(2) modifies several of the conditions in subsections 8503(2) and (3) and section 8504 in their application to defined benefit provisions of a grandfathered plan.

Paragraph 8509(2)(*a*) modifies the bridging benefit limit in subparagraph 8503(2)(*b*)(ii) as it applies after 1991 to a grandfathered plan. The modified limit applicable to bridging benefits payable to a plan member for a particular month is a weighted average of:

> (*a*) the amount of public pension benefits payable to the member for the month in which the member's pension commences to be paid (computed as set out in subparagraph 8503(2)(*b*)(ii) and as if the member were 65 years of age), indexed to the particular month; and
>
> (*b*) the new bridging benefit limit that would be applicable if the plan were not a grandfathered plan.

The amounts in (*a*) and (*b*) are weighted by the proportion of the member's pensionable service that is before 1992 and the proportion that is after 1991, respectively. Paragraph 8509(4)(*b*) permits the Minister of National Revenue to allow bridging benefits in excess of the modified limit where the benefits are vested as of December 31, 1991.

> **Example 39**: A member of a grandfathered plan retires at the end of 1993 with 2 years of post-1991 service and 8 years of pre-1992 service. Suppose that maximum public pension benefits are $1,200 a month and the limit otherwise computed for bridging benefits is $1,000 per month because the member is under 60 years of age. The maximum bridging benefit (disregarding indexing) that may be provided is $1,160 per month (= $1,200 x 8/10 + $1,000 x 2/10).

Although paragraph 8509(2)(*a*) enables increased bridging benefits to be provided under a grandfathered plan, the Minister may (pursuant to subsection 8509(3) or the general power given to the Minister by subsection 147.1(5) of the Act to impose conditions with respect to RPPs) impose a lower limit in certain circumstances. For example, where a grandfathered plan provides bridging benefits to a group of plan members who were previously members of an existing plan and also to a group of plan members who were not previously members of a pension plan, the Minister may require that the bridging benefits provided to the latter group comply with the regular limit in paragraph 8503(2)(*b*). Also, paragraph 8511(1)(*b*) prohibits amendments being made to grandfathered plans to increase bridging benefits beyond the regular limit.

Paragraph 8509(2)(*b*) provides that certain conditions relating to lifetime retirement benefits apply in the case of a grandfathered plan only to such benefits as are provided in respect of periods after 1991. The conditions that are so modified are: the early retirement rules (paragraph 8503(3)(*c*)); the special rules that ensure that benefits correspond appropriately to pension adjustments (paragraphs 8503(3)(*h*) and (*i*)); and the maximum pension rule (paragraphs 8504(1)(*a*) and (*b*)).

Paragraph 8509(2)(*c*) modifies the way in which the maximum pension is to be computed for purposes of applying the maximum pension rule in subsection 8504(1) to grandfathered plans after 1991. In general terms, the maximum pension is to be computed as if a member had no pensionable service before 1992. This is consistent with paragraph 8509(2)(*b*) which restricts the application of the maximum pension rule to post-1991 benefits.

It should be noted that subsections 8509(7) and (8) modify the conditions in subsection 8504(5) (maximum retirement benefits payable before age 65), paragraph 8503(3)(*g*) (limit on benefit accrual rate) and paragraph 8503(3)(*h*) (restriction on increase in accrued benefits) as those conditions apply to certain plans, including grandfathered plans.

Additional Prescribed Condition for Grandfathered Plan After 1991
ITR
8509(3)

Subsection 8509(3) sets out an additional prescribed condition for the registration of a grandfathered plan applicable after 1991. The subsection requires that all benefits provided under each defined benefit provision of a grandfathered plan in respect of periods before 1992 be acceptable to the Minister of National Revenue. This enables the Minister to impose conditions with respect to such benefits. In general, it is expected that the Minister will continue to apply the existing rules to such benefits.

A condition similar to that in subsection 8509(3) is contained in paragraph 8503(3)(*e*). That paragraph is applicable with respect to pre-1991 benefits provided under all defined benefit provisions. The effect of subsection 8509(3) is to extend the application of the general condition to benefits provided under grandfathered plans in respect of 1991 service.

Defined Benefits Under Grandfathered Plan Exempt from Conditions
ITR
8509(4)

Subsection 8509(4) allows the Minister of National Revenue to exempt, after 1991, certain benefits provided under a defined benefit provision of a grandfathered plan from compliance with the new rules for registration. The benefits that may be exempted are:

> (*a*) benefits payable after the death of a member, to the extent that the benefits relate to lifetime retirement benefits provided in respect of pre-1992 service, and
>
> (*b*) excess bridging benefits, to the extent that the excess benefits have vested in a member as of December 31, 1991.

Conditions Not Applicable to Grandfathered Plan
ITR
8509(5)

Subsection 8509(5) modifies certain conditions in sections 8502 and 8503 as they apply to a grandfathered plan. The conditions affected are those which are not prescribed conditions for registration. Failure to comply with the conditions results in a plan becoming a revocable plan by virtue of subsection 8501(2).

Paragraph 8509(5)(*a*) provides that the conditions referred to in paragraph 8501(2)(*b*) do not apply before 1992 with respect to a grandfathered plan. For a summary of these conditions (which apply with respect to the defined benefit provisions of an RPP) reference may be made to Table 2 contained in the commentary on section 8501.
Paragraph 8509(5)(*b*) provides that the condition in paragraph 8502(*d*), which restricts the distributions that may be made by an RPP, is not applicable to distributions made under a defined benefit provision of a grandfathered plan before 1992. Paragraph 8509(5)(*c*) provides that the conditions in paragraphs 8503(3)(*a*) (eligible service) and 8503(3)(*b*) (benefit accruals after pension commencement) are not applicable with respect to benefits in respect of periods before 1992 under a defined benefit provision of a grandfathered plan.

By virtue of paragraphs 8509(1)(*d*) and (*e*), subsection 8509(3) and subsection 147.1(5) of the Act, the Minister of National Revenue is able to impose conditions in place of the above conditions. In general, it is expected that existing rules will continue in force for grandfathered plans where the new rules do not apply.

PA Limits for Grandfathered Plan for 1991
ITR
8509(6)

Subsections 147.1(8) and (9) of the Act impose certain limits that must be satisfied by the pension adjustments (PAs) of the members of an RPP, commencing in 1991. If a member's PA exceeds any of the limits, the registration of the plan may be revoked. Subsection 8509(6) exempts a grandfathered plan from the application of subsections 147.1(8) and (9) for 1991 if the plan contains only defined benefit provisions or if it contains a money purchase provision but no contributions are made under that provision. However, where a member of a grandfathered plan also participates in a deferred profit sharing plan or another RPP that is not a grandfathered plan, such plans can be deregistered if the member's PA (which is based on benefits or contributions under all plans, including grandfathered plans) is excessive.

Limit on Pre-Age 65 Benefits
ITR
8509(7)

Subsection 8509(7) contains a transition rule with respect to the limit in subsection 8504(5) on the combined amount of lifetime retirement benefits and bridging benefits that may be paid under a defined benefit provision of a pension plan to a member who is under 65 years of age.
Subsection 8509(7) applies with respect to a plan if the plan was a registered pension plan on June 7, 1990 or if an application for the registration of the plan had been made on or before that date. It also applies to a plan established to replace such a plan.

Paragraph 8509(7)(*a*) provides that the limit in subsection 8504(5) applies only to benefits in respect of periods after 1991. Paragraph 8509(7)(*b*) makes a corresponding change to the computation of the limit, so that it is determined as if a member had no pensionable service before 1992.

Benefit Accrual Rate Greater Than 2 Per Cent
ITR
8509(8)

Subsection 8509(8) contains a transition rule with respect to the conditions in paragraphs 8503(3)(*g*) (limit on benefit accrual rate) and (*h*) (restriction on increase in accrued benefits). Subsection 8509(8) applies with respect to a plan if the plan was a registered pension plan on [Release Date] or if an application for the registration of the plan had been made on or before that date. It also applies to a plan established to replace such a plan.

Where lifetime retirement benefits under a defined benefit provision depend on a member's remuneration, paragraph 8503(3)(*g*) restricts the benefit accrual rate to a maximum of 2 per cent. Paragraph 8509(8)(*a*) provides that, in the case of a plan to which subsection 8509(8) is applicable, this restriction applies only to the determination of lifetime retirement benefits in respect of periods after 1994.

Paragraph 8503(3)(*h*) contains a rule intended to ensure that lifetime retirement benefits under a defined benefit provision are determined in such a way that pension adjustments are commensurate with the benefits that are actually paid. Subparagraph 8503(3)(*h*)(iv) contains an exception for the situation where a member's benefits can be considered to be integrated with public pension benefits. Paragraph 8509(8)(*b*) provides that, in the case of a plan to which subsection 8509(8) applies, the exception is applicable with respect to a member's benefits only if the highest benefit accrual rate does not exceed 2 per cent.

Benefits Under Plan Other Than Grandfathered Plan
ITR
8509(9)

Subsection 8509(9) contains a transition rule that is relevant only where the Minister of National Revenue has, after March 27, 1988, registered a pension plan (other than a grandfathered plan) that provides defined benefits that do not comply with the conditions in Part LXXXV of the Regulations. Paragraph 8509(9)(*a*) exempts retirement benefits that have commenced to be paid before 1992 from the condition in paragraph 8502(*c*) (permissible benefits). It also exempts from that condition any benefits payable in respect of a member who has died before 1992.
Paragraph 8509(9)(*b*) provides, instead, that all exempted benefits are subject to the condition that they be acceptable to the Minister.

Money Purchase Benefits Exempt From Conditions
ITR
8509(10)

Subsection 8509(10) contains a grandfathering rule applicable with respect to benefits provided under a money purchase provision of a pension plan. The subsection permits the Minister of National Revenue to exempt such benefits from the conditions in subsection 8506(1) (which are applicable by virtue of paragraph 8502(*c*)) to the extent that the benefits can be considered to derive from pre-1992 contributions (including contributions made before 1992 under a money purchase provision of another registered pension plan). It is anticipated that there are few, if any, plans for which the Minister's exemption under this subsection will be sought.

Benefits Acceptable to Minister
ITR
8509(11)

Section 8509 contains a number of transition rules that modify the way in which the conditions in Part LXXXV of the Regulations apply with respect to benefits under a defined benefit provision of a pension plan. Subsection 8509(11) clarifies that these rules are not intended to limit in any way the Minister of National Revenue's power to restrict benefits pursuant to paragraph 8503(3)(*e*) and subsection 8509(3). For example, if an employer extends the coverage of a grandfathered plan to a group of employees who previously were not members of a pension plan, the Minister could require that the benefits provided to this group of employees comply with all conditions as if the plan were not a grandfathered plan.

Multi-Employer Plans and Specified Multi-Employer Plans
ITR
8510

Section 8510 defines a "specified multi-employer plan" (SMEP) and modifies certain rules in Part LXXXV of the Regulations as they apply to multi-employer plans (MEPs) and SMEPs. (A MEP is defined in subsection 8500(1) and, by definition, includes a SMEP.)

Definition of "Multi-Employer Plan"
ITR
8510(1)

Subsection 147.1(1) of the Act defines "multi-employer plan" to have the meaning assigned by regulation. Subsection 8510(1) provides that the definition of "multi-employer plan" in subsection 8500(1) applies for this purpose.

Specified Multi-Employer Plans
ITR
8510(2) to (4)

Subsection 8510(2) defines a "specified multi-employer plan" in a particular calendar year as a pension plan that falls within any of the following three categories:

> Category 1 -- a pension plan in respect of which the following conditions (set out in subsection 8510(3)) are satisfied at the beginning of the year:
>
> (*a*) it is reasonable to expect that at no time in the year will more than 95 per cent of the active members of the plan be employed by a single employer or by a related group of employers;
>
> (*b*) it is reasonable to expect that
>
> - at least 15 non-related employers will participate in the plan in the year, or
> - at least 10 per cent of the active members of the plan will be employed in the year by two or more non-related participating employers;
>
> (*c*) employers participate in the plan pursuant to a collective bargaining agreement;
>
> (*d*) all or substantially all of the employers who participate in the plan are persons who are not exempt from tax under Part I of the Act;
>
> (*e*) contributions are made by employers in accordance with a negotiated contribution formula that does not provide for any

variation in contributions determined by reference to the financial experience of the plan;

(*f*) employer contributions are determined to some extent by reference to the hours worked by employees (or other measure that is employee-specific);

(*g*) the administrator of the plan is a board of trustees (or similar body) that is not controlled by representatives of employers; and

(*h*) the administrator has the power to determine the benefits to be provided under the plan, whether or not that power is subject to the terms of a collective bargaining agreement;

Category 2 -- a pension plan that has, on application by the plan administrator, been designated in writing by the Minister of National Revenue to be a specified multi-employer plan; or

Category 3 -- if the particular year is 1991 or later, a pension plan that was a Category 1 plan in the immediately preceding year.

For the purposes of conditions (*a*) and (*b*) (Category 1 plans), it must be determined whether employers are related. Section 251 of the Act defines "related persons" and similar expressions.

It is anticipated that the Minister will designate a plan as a specified multi-employer plan (Category 2) only where the plan has many of the characteristics of a plan described in Category 1 and the designation is appropriate to overcome serious PA reporting difficulties.

Category 3 plans are included as SMEPs so that where a pension plan ceases to be a Category 1 plan, there is sufficient time to apply to the Minister for designation as a SMEP or to establish new PA calculation and reporting procedures.

Subsection 8510(2) provides that a pension plan is not a SMEP in a calendar year if, before the year, the Minister has given notice to the plan administrator that the plan is not a SMEP. Subsection 8510(4) permits the Minister to give such notice only if the plan administrator has requested the notice (or if the notice is given at a time when the conditions in subsection 8510(3) are not satisfied) and the Minister is satisfied that participating employers will be able to comply with all reporting requirements applicable if the plan is not a SMEP. This exclusion is mainly intended to allow a plan that would otherwise be a SMEP to elect not to be treated as a SMEP.

Special Rules -- Multi-Employer Plan
ITR
8510(5)

Subsection 8510(5) modifies certain of the defined benefit rules in sections 8503 and 8504 as they apply to a pension plan that is a MEP.

A number of the rules in sections 8503 and 8504 apply differently in the case of a plan member who, at any time after 1990, has been connected (as defined in subsection 8500(3)) with an employer who participates in the plan. Paragraph 8510(5)(*a*) provides that, for the purposes of those rules, no member of a MEP is to be considered to be connected with a participating employer. Thus, the special restrictions in those rules that apply if a member is a connected member do not apply with respect to benefits provided under a MEP. The provisions affected include paragraphs 8503(2)(*b*) (bridging benefits), 8503(2)(*e*) (pre-retirement survivor benefits), 8503(3)(*a*) (period of disability as eligible service), 8503(3)(*c*) (early retirement), 8503(3)(*d*) (increased benefits to disabled member) and 8503(3)(*e*) (pre-1991 benefits). Also affected is the maximum pension rule in subsection 8504(1).

Paragraph 8503(3)(*b*) prohibits the continued accrual by a member of benefits under a defined benefit provision of a pension plan where benefits have commenced to be paid to the member under any other defined benefit provision of the plan or under a defined benefit provision of certain other plans. Paragraph 8510(5)(*b*) eliminates the cross-plan portion of this rule.

Paragraph 8503(3)(*k*) includes a cross-plan restriction on the payment of bridging benefits, and subsection 8504(8) includes a rule providing for benefits under "associated" plans to be taken into account in applying the retirement benefit limits in subsections 8504(5) and (6).
Paragraph 8510(5)(*c*) eliminates the cross-plan portions of those rules.

Special Rules -- Specified Multi-Employer Plan
ITR
8510(6)

Subsection 8510(6) modifies certain of the registration rules in sections 8502 and 8503 as they apply to a pension plan that is a SMEP.
(Subsection 8510(5) will also apply in the case of a SMEP.)

Paragraph 8502(*b*) restricts the employer contributions that may be made in respect of a defined benefit provision of an RPP to contributions that are eligible contributions pursuant to subsection 147.2(2) of the Act. Paragraph 8510(6)(*a*) provides an exemption from this requirement for SMEPs, by declaring that employer contributions made to a defined benefit provision in accordance with the plan as registered are eligible contributions. Consequently, the restrictions on contributions that apply to other plans when there is a build-up of actuarial surplus will not apply to a SMEP.

Paragraphs 8510(6)(*b*) and (*c*) provide that the following rules are not applicable to a SMEP:

- the conditions to ensure that pension adjustments (PAs) are determinable and that benefits are appropriate relative to PAs (paragraphs 8503(3)(*f*) and (*h*) to (*j*)),
- the maximum pension rule (subsection 8504(1)), and
- the restriction on the contributions that may be made by plan members (paragraph 8503(4)(*a*)).

The conditions relating to PAs are not necessary in the case of a SMEP since PAs are determined on a money purchase basis. The maximum pension rule has not been imposed for a SMEP since it would be very difficult to administer. However, the level of tax-assisted saving in SMEPs is limited by a condition in subsection 8510(7).

Additional Prescribed Conditions
ITR
8510(7)

A pension plan that is a SMEP is excluded from the application of many of the rules that control the level of contributions to and benefits from an RPP, including the PA limit rule in subsection 147.1(9) of the Act, the maximum pension rule in subsection 8504(1) and the requirement in paragraph 8502(*b*) that employer contributions be eligible contributions as described in subsection 147.2(2) of the Act. Subsection 8510(7) imposes two additional prescribed conditions for registration in place of the above rules.

Paragraph 8510(7)(*a*) requires that the combined employer and member contribution rates to a SMEP be such that the total contributions to be made each year (or, more precisely, the sum of pension credits of all plan members for the year) can reasonably be expected not to exceed 18 per cent of the total compensation of plan members. This test must be satisfied each time that new contribution rates are established. Where a SMEP is also a grandfathered plan (as defined in subsection 8500(1)), this additional condition does not apply until 1992.

Paragraph 8510(7)(*b*) imposes a condition that applies to a SMEP that contains a money purchase provision. It requires that the plan terms be designed so that if the PA limit rule in subsection 147.1(9) of the Act were applicable with respect to the plan, the pension credit limits would never be violated. Alternatively, it permits plan terms that may lead to pension credits that exceed the limits in subsection 147.1(9), but only if the circumstances of potential non-compliance are acceptable to the Minister. Such circumstances might include, for example, the continuation of contributions during periods of leave. In this regard, it should be noted that the rules in section 8507 that prescribe additional compensation in respect of leaves of absence and periods of reduced pay are not applicable with respect to SMEPs.

Purchase of Additional Benefits
ITR
8510(8)

Subsection 8510(8) contains a rule applicable where a SMEP permits members to "purchase" additional pensionable hours in a year during which they do not work on a full-time basis. Generally, lifetime retirement benefits provided under a defined benefit provision as a consequence of the purchase of such hours would not be permissible, since the benefits would not be in respect of a period of employment or any other period specified in paragraph 8503(3)(*a*) (the eligible service rule). Subsection 8510(8) provides an exemption from the rule in paragraph 8503(3)(*a*) where the following conditions are satisfied:

> (*a*) the amount of lifetime retirement benefits provided under the defined benefit provision of the plan to each member is determined by reference to the hours of employment of the member; and
>
> (*b*) the plan permits a member whose actual hours of employment are less than a specified number (not exceeding a reasonable measure

of full-time hours that could have been worked) to purchase additional hours up to the specified number.

Conditions Applicable to Amendments
ITR
8511

Section 8511 contains conditions that apply in respect of certain amendments to RPPs.

ITR
8511(1)

Subsection 147.1(4) of the Act provides that the Minister of National Revenue is not to accept an amendment to an RPP unless certain conditions are satisfied, including the requirement that the plan as amended comply with the prescribed conditions for registration and the requirement that the amendment comply with prescribed conditions. Subsection 8511(1) prescribes two conditions for the purposes of the latter requirement.

The first condition, in paragraph 8511(1)(*a*), is that, where an amendment increases accrued lifetime retirement benefits, the amendment must not be inconsistent with the conditions in paragraph 8503(3)(*h*) and (*i*). Those conditions are intended to ensure that the level of benefits provided under an RPP corresponds with the PAs associated with the benefits. The purpose of paragraph 8511(1)(*a*) is to prevent the upgrading of benefits by amendments to the plan where the plan would not have been permitted to provide for the upgrades on a prospective basis. For example, if a particular final average earnings formula would not comply with paragraph 8503(3)(*h*) whereas the corresponding career average formula would so comply, the plan cannot provide career average benefits and then upgrade the benefits to base them on current remuneration.

The second condition, in paragraph 8511(1)(*b*), applies where an RPP is a grandfathered plan (as defined in subsection 8500(1)). Paragraph 8509(2)(*a*) permits a grandfathered plan to provide bridging benefits that exceed the normal limit in paragraph 8503(2)(*b*). Paragraph 8511(1)(*b*) provides, however, that a grandfathered plan cannot be amended to increase bridging benefits unless the increased benefits comply with the normal limit.

ITR
8511(2)

Subsection 8511(2) applies where an RPP is amended to provide for the return of member contributions. The subsection requires that the plan pay out the contributions (and any related interest) as soon as practicable after the amendment is made. However, any amount that subsection 147.3(6) of the Act permits to be transferred to an RRSP or another RPP is excluded from this requirement.

Subsection 8511(2) is intended to prevent a plan member from leaving his or her contributions in a plan in order to benefit from the deferral of taxes on investment earnings.

It should be noted that subparagraph 8502(*d*)(iv) permits a plan to be amended to provide for a return of member contributions only where the amendment also reduces or eliminates the requirement for members to make contributions in the future.

Registration and Amendment
ITR
8512

Section 8512 requires the filing of amendments to RPPs and sets out the procedure for applying for the registration of a pension plan and for filing amendments to RPPs.

ITR
8512(1)

Subsection 147.1(2) of the Act requires that an application for the registration of a pension plan be made in prescribed manner by the plan administrator. Subsection 8512(1) specifies that an application must be made by forwarding the following documents by registered mail to the Deputy Minister of National Revenue:

- an application in prescribed form containing prescribed information;
- certified copies of the plan text and any other documents that contain terms of the plan;
- certified copies of all trust deeds, insurance contracts and other documents relating to the funding of benefits under the plan;

- certified copies of all agreements relating to the plan; and
- certified copies of all resolutions and by-laws relating to the above documents.

Subsection 8512(1) is not applicable until the day on which it is published in the *Canada Gazette*.

ITR
8512(2)

Subsection 8512(2) applies where an RPP or the funding arrangement for an RPP is amended after 1988. It requires the plan administrator to send to the Deputy Minister of National Revenue, within 60 days after the amendment, a prescribed form and certified copies of all documents relating to the amendment.

The requirement to provide the above information does not apply until 60 days after the day on which subsection 8512(2) is published in the *Canada Gazette*. However, Revenue Canada currently requires, in paragraph 15 of Information Circular 72-13R8, that amendments be submitted promptly.

ITR
8512(3)

Subsection 147.1(4) of the Act requires that an application for the acceptance of an amendment to an RPP be made in prescribed manner by the plan administrator. Subsection 8512(3) provides that this condition is satisfied where the administrator forwards by registered mail to the Deputy Minister of National Revenue for Taxation the documents required by subsection 8512(2).

Designated Laws
ITR
8513

Section 8513 defines the expression "designated provision of the law of Canada or a province" to mean subsection 21(2) of the *Pension Benefits Standards Act, 1985* and similar provisions of provincial legislation. The definition is applicable for the purposes of paragraph 8302(3)(*m*) (calculation of normalized pension for the purpose of PA), subparagraph 8502(*c*)(iii) (permissible benefits) and paragraph 8517(5)(*f*) (calculation of normalized pension for the purpose of the limit on transfers from defined benefit plans to RRSPs and money purchase plans). For further discussion of this definition, see the commentary on paragraph 8502(*c*).

Prohibited Investments
ITR
8514

Paragraph 8502(*h*) restricts the investments that may be made by an RPP. Subsection 8514(1) specifies, for the purposes of that paragraph, the following investments as investments that are prohibited in relation to a pension plan:

(*a*) a share of, an interest in, or a debt of:

(i) an employer participating in the plan;

(ii) a person connected with a participating employer (as defined in subsection 8500(3));

(iii) a plan member;

(iv) a person or partnership that controls a person or partnership referred to in (i) or (ii); or

(v) a person or partnership that does not deal at arm's length with a person or partnership referred to in (i) to (iv); or

(*b*) an interest in, or right to acquire, property described above.

However, subsection 8514(2) excludes from the list of otherwise prohibited investments a number of properties:

- government bonds and similar instruments described in clause 212(1)(*b*)(ii)(*c*) of the Act;

- shares and debt obligations of a corporation listed on a stock exchange referred to in section 3200 or 3201 of the Regulations (or rights to acquire such shares or debt obligations); and

- mortgages which bear an arm's length rate of interest and which satisfy additional conditions in certain circumstances.

Where the amount paid for a mortgage (together with the indebtedness under any mortgage or hypothec ranking equally with or superior to the mortgage) exceeds 75 per cent of the fair market value of the real property subject to the mortgage, the exclusion applies only if the mortgage is insured. This insurance requirement may be waived by the Minister of National Revenue. It is expected that a waiver will be granted only in special circumstances such as where mortgages are granted to members of the plan pursuant to an arrangement under which it is reasonable to expect the likelihood of default to be remote. Where a mortgage is held in connection with a designated plan as defined in section 8515 (except for a plan that is a designated plan because some of the members earn more than 2½ times the Year's Maximum Pensionable Earnings), the mortgage must be administered by an approved lender under the National Housing Act in order for the exclusion to apply.

By virtue of subsections 8514(3) and (4), investments acquired before March 28, 1988 are also excluded, except debt obligations the term of which has been extended or the principal amount of which has increased as a result of the lending of further amounts.

Special Rules for Designated Plans
ITR
8515

Subsection 147.2(2) of the Act defines an eligible contribution for the purposes of subsection 147.2(1) of the Act (deduction of employer contributions) and paragraph 8502(*b*) of the Regulations (permissible contributions to an RPP). An eligible contribution is a contribution made by an employer to an RPP in respect of the defined benefit provisions of the plan that (i) is a prescribed contribution (contributions are prescribed for this purpose by section 8516), or (ii) complies with prescribed conditions and is made pursuant to the recommendation of an actuary based on an actuarial valuation that complies with certain conditions.
Subsection 8515(5) prescribes a condition that is applicable in determining whether contributions made to an RPP that is a designated plan are eligible contributions.

Subsections 8515(1) to (3) specify which plans are designated plans. In general terms, an RPP is a designated plan if it is a plan that is primarily for connected persons or persons who earn over 2½ times the YMPE (over

$76,250 in 1991). The special condition applicable to designated plan contributions serves to limit the level of contributions that may be made to prefund permissible benefits. A further rule in subsection 8515(9) ensures that member past service contributions are subject to the same limit.

The condition in subsection 8515(5) applies in respect of contributions made after 1991, in the case of pension plans that were registered on or before [Release Date]. For other plans, the condition applies with respect to contributions made after 1990.

Where a contribution is a prescribed contribution by virtue of section 8516, the contribution will be an eligible contribution regardless of whether the condition in subsection 8515(5) is satisfied. A contribution is most likely to be a prescribed contribution as a result of the application of subsection 8516(3) (a contribution approved by the Minister under paragraph 20(1)(s) of the Act).

Designated Plan
ITR
8515(1)

Subsection 8515(1) provides, for the purposes of subsections 8515(5) and (9), that an RPP with a defined benefit provision is a designated plan throughout a year if the pension credits of specified individuals (as defined in subsection 8515(4)) exceed 50 per cent of all pension credits for the year under the provision. Pension credits are amounts included in calculating pension adjustments and, in the case of a defined benefit provision, are determined pursuant to subsection 8301(6). A plan that is maintained pursuant to a collective bargaining agreement is excluded from being a designated plan. Further exceptions are provided by subsection 8515(3) for (i) a plan that crosses the 50 per cent threshold by a small amount, if the plan was not a designated plan in the preceding year, and (ii) a plan that has at least 10 active members if the Minister of National Revenue has agreed not to treat the plan as a designated plan.

Designated Plan in Previous Year
ITR
8515(2)

Subsection 8515(2) provides, for the purposes of subsections 8515(5) and (9), that an RPP that is a designated plan in 1991 or any subsequent year continues to be an RPP thereafter. This rule prevents a plan from moving in and out of the category of designated plans. The Minister of National

Revenue may exempt a plan from the application of this subsection. It is expected that the Minister will grant such an exemption only where it appears unlikely that the plan will be a designated plan pursuant to subsection 8515(1) in the future.

Exception
ITR
8515(3)

Subsection 8515(3) exempts, in limited circumstances, an RPP from becoming a designated plan pursuant to subsection 8515(1). Subsection 8515(3) provides that subsection 8515(1) does not apply to render a plan a designated plan in a year if the subsection did not apply in the preceding year and if it would not apply in the current year if the 50 per cent pension credit test were replaced by a 60 per cent test. Thus, a slight change in circumstances will not result in a plan becoming a designated plan unless the changed circumstances persist for more than a year.

Subsection 8515(3) also exempts a plan from being a designated plan in a year if the plan has 10 or more active members (as defined in subsection 8500(1)) in the year and the Minister of National Revenue has given written notice to the plan administrator that the plan is not a designated plan. It can be expected that the Minister will give such notice in respect of a plan only where the plan is a normal defined benefit plan and all or most of the members of the plan deal at arm's length with the employers who participate in the plan. Circumstances that would indicate that a plan is not a normal defined benefit plan include: (1) a benefit formula that varies by member; (ii) member involvement in the decision as to the amount of contributions to be made in respect of the member; (iii) control by each member over the investment of a portion of the plan assets; and (iv) tracking of surplus on a member by member basis. For example, the Minister will not exempt a plan from being a designated plan if the plan is, in substance, a conglomeration of individual money purchase arrangements.

Subsection 8515(3) does not exempt an RPP from the application of subsection 8515(2). Thus, if a plan has become a designated plan in a prior year, subsection 8515(3) is of no effect unless the Minister of National Revenue waives the application of subsection 8515(2).

Specified Individual
ITR
8515(4)

Subsection 8515(4) defines the expression "specified individual", which is used in subsection 8515(1). An individual is a specified individual for the purpose of determining if an RPP is a designated plan in a calendar year if

> (*a*) the individual was connected at any time in the year with an employer who participates in the plan, or
>
> (*b*) the total of the individual's remuneration for the year from employers who participate in the plan (or from other non-arm's length employers) exceeds 2½ times the YMPE for the year.

Subsection 8500(3) assigns a meaning to the statement that a person is connected with an employer. In general terms, a connected person is a person who, together with other non-arm's length persons, owns at least 10 per cent of the shares of the employer or a person related to the employer.

The YMPE is the Year's Maximum Pensionable Earnings under the Canada Pension Plan. It is $30,500 in 1991 and is adjusted each year in line with the growth in wages.

Eligible Contributions
ITR
8515(5)

Subsection 8515(5) prescribes, for the purposes of subsection 147.2(2) of the Act (definition of an eligible contribution), an additional condition that must be satisfied by an employer contribution made to an RPP at a time when the plan is a designated plan in order for the contribution to qualify as an eligible contribution. The condition applies to contributions made after 1991 in the case of plans that were registered before [Release Date]. For other plans, the condition applies to contributions made after 1990.

If a designated plan was established after 1990, subsection 8515(5) requires that contributions to the plan satisfy the condition in subsection 8515(6). In brief, subsection 8515(6) restricts eligible contributions to those contributions that would be required if contributions were determined on the basis of an actuarial valuation prepared in accordance with the conditions in subsection 8515(7) and if the benefits were modified as described in subsection 8515(6).

For contributions made to a plan that was established before 1991, subsection 8515(5) requires either that the contributions satisfy the condition in subsection 8515(6) or that the contributions would satisfy that condition if the following rules (applicable as part of the condition) were applicable only in respect of benefits that become provided after 1990 (including pre-1991 benefits credited on a past service basis):

(*a*) paragraph 8515(6)(*b*), which permits a restricted-funding member's pension to be funded as if it were indexed at the specified rate,

(*b*) paragraph 8515(6)(*c*), which contains an assumption regarding the post-retirement death benefits payable after the death of a restricted-funding member, and

(*c*) subparagraph 8515(7)(*e*)(*i*), which imposes the assumption that a restricted-funding member's pension will not commence until the member reaches age 65.

This alternative rule is intended to grandfather the funding of benefits that became provided before 1991 under a designated plan that includes generous early retirement benefits. It should be noted that the funding of such benefits is not totally exempt from the conditions in subsections 8515(6) and (7). In particular, the maximum funding valuation referred to in subsection 8515(6), as it applies with respect to such benefits, must be prepared on the basis of most of the assumptions set out in subsection 8515(7). Furthermore, subparagraph 8515(5)(*b*)(iii) requires that the assumption for purposes of the maximum funding valuation as to the commencement date for the payment of such benefits be the same as the assumption used in the regular valuation.

Funding Restriction
ITR
8515(6)

Subsection 8515(6) contains a condition that applies, pursuant to subsection 8515(5), with respect to the funding of designated plans. In general terms, subsection 8515(6) provides that a contribution may be made to a plan only if the contribution would be required if contributions were determined on the basis of an actuarial valuation that satisfies a number of constraints and if certain specified benefits were provided under the plan in lieu of the benefits actually provided.

A contribution is permissible under subsection 8515(6) only if it is required to be made so that the plan will have sufficient assets to pay benefits. Required contributions are to be determined, for this purpose, in accordance with the rules in paragraphs 8515(6)(*a*) to (*e*).

Paragraph 8515(6)(*a*) requires that contributions be determined on the basis of a "maximum funding valuation" that is prepared as of the same date as the regular valuation. The conditions that must be satisfied by an actuarial valuation in order to qualify as a maximum funding valuation are set out in subsection 8515(7).

Paragraph 8515(6)(*b*) permits the pension provided to a restricted-funding member to be funded as if cost-of-living adjustments at a rate equal to the annual rate of increase in the Consumer Price Index minus one per cent will be made to the pension after it commences to be paid. As defined in subsection 8515(8), a restricted-funding member is a member to whom retirement benefits have not commenced to be paid.

Paragraph 8515(6)(*c*) provides that the actual post-retirement death benefits payable after the death of a restricted-funding member are to be ignored. Instead, it is to be assumed that the member's pension will be guaranteed for 5 years, and that thereafter a 66 2/3 per cent survivor benefit will be payable to the member's spouse.

Paragraph 8515(6)(*d*) applies where more than one employer participates in a plan, and requires that assets and liabilities be allocated in a reasonable manner among the employers in respect of their employees and former employees. This requirement is analogous to the requirement in subparagraph 147.2(*a*)(vi) of the Act.

Paragraph 8515(6)(*e*) provides that the rule in paragraph 147.2(2)(*d*) of the Act is also applicable for purposes of determining required contributions on the restricted funding basis. That rule permits all or a portion of an actuarial surplus to be disregarded, depending on the magnitude of the surplus.

Maximum Funding Valuation
ITR
8515(7)

Subsection 8515(7) sets out the restrictions that apply to an actuarial valuation prepared for the purpose of determining the maximum contributions that may be made to an RPP that is a designated plan. Such a valuation is referred to as a maximum funding valuation. The requirement that a maximum funding valuation be used for this purpose is imposed by paragraph 8515(6)(*a*).

Paragraph 8515(7)(*a*) requires that the projected accrued benefit method be used for the purpose of determining actuarial liabilities and current service costs. Under this method (also known as the projected unit credit method), actuarial liabilities are based on benefits accrued to the date of the valuation, with an allowance for the effect of expected salary increases and inflation adjustments on the accrued benefits. Current service costs are determined in a consistent manner.

Paragraph 8515(7)(*b*) requires that the valuation rate of interest be 7.5 per cent per annum. In conjunction with the condition set out in paragraph 8515(7)(*c*), this condition limits the extent to which conservative assumptions regarding the rate of return on plan funds can be used to increase plan contributions.

Where it is necessary to make an assumption as to the rate at which a member's salary or wages will increase, subparagraph 8515(7)(*c*)(*i*) requires that a rate of 5.5 per cent per annum be used. This assumption is relevant, for example, where the member's pension is based on final or best average earnings.

Subparagraph 8515(7)(*c*)(ii) specifies an assumption of 4 per cent per annum for the rate of increase in the Consumer Price Index. This assumption is relevant, in particular, where a member's pension is indexed after it commences to be paid. By virtue of paragraph 8515(6)(*b*), the pension payable to a restricted-funding member is assumed to be indexed at the annual rate of increase in the Consumer Price Index minus one per cent.

Paragraph 8515(7)(*d*) requires that each assumption made with respect to economic factors other than those referred to in paragraph 8515(7)(*c*) be consistent with the assumptions imposed by that paragraph.

Paragraph 8515(7)(*e*) imposes a number of assumptions with respect to a restricted-funding member (that is, a member whose pension has not commenced to be paid):

> (i) the member's pension will commence to be paid when the member reaches age 65 or, if the member is already age 65, the pension commences to be paid on the effective date of the valuation;
>
> (ii) the member will survive and, if employed, will continue in employment until the commencement of the member's pension; and
>
> (iii) the member will be married to a person of the same age when the member's pension commences to be paid.

Paragraph 8515(7)(*f*) requires that mortality rates be based on the *1983 Group Annuity Mortality Table*, as published in Volume XXXV of the *Transactions of the Society of Actuaries*. The mortality rate to be used at a particular age is 80 per cent of the average of the male and female rates at that age as set out in the Table.

Paragraph 8515(7)(*g*) provides that where a member has a choice between a pension and a lump sum payment, the member is to be assumed to elect the pension. This rule is relevant, for example, where a deferred vested member can elect to cash out of a plan, but has not made such an election.

Paragraph 8515(7)(*h*) requires that the plan's assets be valued at an amount equal to their fair market value as of the effective date of the valuation.

Restricted-Funding Member
ITR
8515(8)

Subsections 8515(6) and (7) contain a number of rules that apply with respect to restricted-funding members of an RPP. Subsection 8515(8) provides that a member is a restricted-funding member if, at the time at which the maximum funding valuation is prepared, the member is entitled to a pension (whether or not vested) that has not commenced to be paid. A member will also be a restricted-funding member if the member's pension has commenced to be paid and has then been suspended. Examples of individuals who are not restricted-funding members include a member whose pension is in payment and a member who has terminated employment and whose only entitlement is to a lump sum payment that remains to be paid.

Member Contributions
ITR
8515(9)

Subsection 8515(9) provides that an RPP becomes a revocable plan if a member of the plan makes a past service contribution at a time when the plan is a designated plan and the contribution would not have been an eligible contribution if made by the member's employer. If a plan becomes a revocable plan, its registration may be revoked pursuant to subsections 147.1(11) to (13) of the Act. Subsection 8515(9) has the effect of extending the restrictions on the funding of a designated plan to past service contributions made by a member of the plan.

Eligible Contributions -- Transition Rules
ITR
8516

Subsection 147.2(2) of the Act provides that a contribution made by an employer to an RPP in respect of the defined benefit provisions of the plan is an eligible contribution if it is a prescribed contribution or if certain conditions are satisfied. Eligible contributions are defined for the purposes of subsection 147.2(1) of the Act (deduction of employer contributions) and paragraph 8502(*b*) of the Regulations (permissible contributions to an RPP). Subsection 8516(1) prescribes, for the purpose of subsection 147.2(2), those contributions described in subsections 8516(2) to (6).

Amortization of Excess Actuarial Surplus
ITR
8516(2)

Subsection 8516(2) applies where the actuarial surplus under an RPP exceeds the amount that subsection 147.2(2) of the Act permits to be ignored for the purpose of determining the contribution requirements. In general terms, the subsection does not require the excess surplus to be taken into account immediately, but permits it to be brought into account as if it were employer contributions made uniformly throughout the period from January 1, 1991 to December 31, 1994.

More specifically, a contribution made by an employer to an RPP is an eligible contribution pursuant to subsection 8516(2) if (*a*) the contribution is made before 1995;

(*b*) the contribution would be an eligible contribution under subsection 147.2(2) of the Act if the plan's actuarial surplus were ignored; and

(*c*) the recommendation pursuant to which the contribution is made is such that the contributions required to be made by the employer do not exceed the contributions that would be required if

(i) except as described in (ii), employer contributions were determined without regard to any actuarial surplus, and

(ii) employer contributions to be made after 1990 were determined on the basis that the "excess" actuarial surplus (as described below) becomes available uniformly throughout the period from January 1, 1991 (or, if later, the effective date of the actuarial valuation prepared in connection with the recommendation) to December 31, 1994 to fund benefits as if the amount that becomes available were additional employer contributions.

The amount of "excess" actuarial surplus referred to above is the amount by which the actuarial surplus exceeds the portion of the actuarial surplus that paragraph 147.2(2)(*d*) of the Act permits to be disregarded in determining employer contributions (i.e. the lesser of the amounts determined under subparagraphs 147.2(2)(*d*)(ii) and (iii)). Where the effective date of an actuarial valuation is before 1991, the "excess" actuarial surplus is reduced to the extent that employer and employee contributions made before 1991 were less than the current service contribution requirements of the plan.

Approval Under Paragraph 20(1)(s)
ITR
8516(3)

Subsection 8516(3) provides a grandfathering rule for certain contributions that would have been deductible had the rules for 1990 continued in force. A contribution is an eligible contribution pursuant to subsection 8516(3) if the Minister of National Revenue has approved the contribution under former paragraph 20(1)(s) of the Act and the contribution would have been deductible under that paragraph had it continued in force. Thus, where an actuarial valuation has been prepared and contributions approved by the

Minister, it is not necessary to prepare another valuation until a valuation would have been required for the purposes of the old rules (unless the Minister has given an approval that is limited in time).

Contribution Pursuant to Collective Bargaining Agreement
ITR
8516(4)

Subsection 8516(4) provides a grandfathering rule for certain negotiated contributions. A contribution is an eligible contribution pursuant to this subsection if it is made before 1994 pursuant to a collective bargaining agreement entered into before 1990.

Contribution Pursuant to Statute or By-Law
ITR
8516(5)

Subsection 8516(5) provides a grandfathering rule for certain legislated contributions. A contribution is an eligible contribution pursuant to this subsection if it is made in 1991 pursuant to a formula in a statute or by-law that was in existence on March 27, 1988, and the formula for determining employer contributions has not been amended after March 27, 1988 and before the time at which the contribution is made.

Employer Not Entitled to Reduce Contributions
ITR
8516(6)

Subsection 8516(6) provides a grandfathering rule for certain contributions that an employer is required to make to a plan. In general terms, the subsection enables the Minister to permit an employer to make full current service contributions to a plan even though there is a large actuarial surplus in the plan, where the plan terms do not allow the employer to take a contribution holiday.

More specifically, a contribution made by an employer to an RPP is an eligible contribution pursuant to subsection 8516(6) if

(*a*) the contribution is made before 1994;

(*b*) the plan requires employer contributions to be determined without regard to the amount of actuarial surplus in the plan, or else there is an active dispute as to whether the plan requires this, (*c*) the contribution would be an eligible contribution if the actuarial surplus were ignored, and

(*d*) the contribution is acceptable to the Minister of National Revenue.

Transfer -- Defined Benefit to Money Purchase
ITR
8517

Subsection 147.3(4) of the Act restricts the amount that may be transferred on a tax-free basis from a defined benefit provision of an RPP to an RRSP or to a money purchase provision of an RPP. Paragraph 147.3(4)(*c*) requires that the amount not exceed a prescribed amount. Section 8517 contains rules for determining the prescribed amount for this purpose.

The restriction on the amount that may be transferred prevents the use of such transfers as a means of obtaining larger tax-assisted retirement benefits than intended. In particular, the limit restricts the extent to which early retirement benefits, including bridging benefits and the additional value of a pension that is not actuarially reduced to reflect its commencement prior to age 65, can be converted into additional lifetime retirement benefits commencing at a later age. The restriction also limits the further tax deferrals that might otherwise be gained by the use of conservative assumptions in determining the commuted value of benefits.

In determining the amount that may be transferred on behalf of an individual, a number of other restrictions must be considered:

- paragraph 147.3(4)(*a*) of the Act, which prohibits the transfer of an amount where any part of the amount is derived from an actuarial surplus;

- paragraph 8503(2)(*m*) of the Regulations, which requires that a lump sum paid in lieu of other benefits under a defined benefit provision not exceed the present value of the benefits; and

- paragraph 8502(*j*) of the Regulations, which requires the use of actuarial assumptions that are reasonable and acceptable to the Minister.

Prescribed Amount
ITR
8517(1)

Subject to subsections 8517(2) and (3), the prescribed amount in relation to a transfer from a defined benefit provision on behalf of an individual equals:

(*a*) where the individual has attained age 72 at the time of the transfer, nil, and

(*b*) in any other case, the amount determined by the formula

$$A \times B$$

where

A is the amount of the individual's annual lifetime retirement benefits under the provision commuted in connection with the transfer (as determined pursuant to subsection 8517(4)), and

B is the present value factor, set out in the following table, which corresponds to the attained age of the individual at the time of the transfer, unless the individual is between 49 and 64 years old, in which case it is the present value factor determined based on the individual's exact age (including any fraction of a year) by interpolating between the factors set out in the table for the individual's attained age and for the next higher age.

Attained Age	Present value factor	Attained age	Present value factor
Under 50	9.0	61	11.7
50	9.4	62	12.0
51	9.6	63	12.2
52	9.8	64	12.4
53	10.0	65	12.4
54	10.2	66	12.0
55	10.4	67	11.7
56	10.6	68	11.3
57	10.8	69	11.0
58	11.0	70	10.6
59	11.3	71	10.3
60	11.5		

The present value factors set out in the table are based on the value of a pension that includes reasonably generous ancillary benefits and that commences at age 65. The value has been determined using interest rate, wage and price growth, and mortality assumptions consistent with those underlying the factor of 9 by which defined benefits are multiplied to obtain pension credits.

Minimum Prescribed Amount
ITR
8517(2)

Subsection 8517(2) provides that where a transfer is made in full satisfaction of an individual's entitlement to benefits under a defined benefit provision of an RPP, the prescribed amount is the greater of the amount determined under subsection 8517(1) and the balance in the individual's net contribution account. "Net contribution account" is defined in subsection 8503(1). In general terms, the balance is equal to the contributions made by the individual under the provision plus interest, less any payments made in respect of the individual.

Subsection 8517(2) ensures that an individual is able to transfer, as a minimum, the balance in the individual's net contribution account. It is anticipated that this minimum will rarely exceed the amount determined under subsection 8517(1).

Plan Wind-Up or Replacement
ITR
8517(3)

Subsection 8517(3) applies where amounts are transferred before 1993 (or such later time as is acceptable to the Minister) on the winding-up of an RPP or on the replacement of a defined benefit provision of an RPP by a money purchase provision of another RPP. If the winding-up or replacement commenced before 1989 and, at the time the winding-up or replacement commenced, the plan had been in existence for at least 5 years and had at least 50 members (or these two conditions are waived by the Minister), the prescribed amount with respect to an individual for the purpose of subsection 147.3(4) of the Act is the amount transferred on behalf of the individual. As a consequence, the prescribed amount does not limit the amount that may be transferred. (However, there are other restrictions on the amount that may be transferred, as described above.)

By virtue of the rule in paragraph 8502(*k*) which regulates the "transfer" of property between benefit provisions of an RPP, subsection 8517(3) will also apply where the conversion of a defined benefit plan to a money purchase plan commenced before 1989.

Amount of Lifetime Retirement Benefits Commuted
ITR
8517(4)

Subsection 8517(4) sets out rules for determining the amount of an individual's lifetime retirement benefits under a defined benefit provision of an RPP commuted in connection with a transfer to which subsection 147.3(4) of the Act applies. Where retirement benefits have commenced to be paid, the amount is equal to the reduction in the individual's annual lifetime retirement benefits under the provision as a result of the transfer. Otherwise, the amount is equal to the reduction in the individual's "normalized pension" (as defined for this purpose in subsection 8517(5)) as a result of the transfer. In either case, the amount determined is subject to paragraph 8517(4)(*c*) and the anti-avoidance rule in subsection 8517(7), both of which are discussed below.

Paragraph 8517(4)(*c*) applies where, in conjunction with a transfer from an RPP on behalf of an individual, another payment is also made from the plan on behalf of the individual. The other payment would generally be a lump sum cash amount, such as an excess amount that cannot be transferred in accordance with subsection 147.3(4) of the Act. Paragraph 8517(4)(*c*) provides that the reduction in the individual's lifetime retirements benefits or normalized pension, as the case may be, as a result of that other payment is taken into account in determining the lifetime retirement benefits commuted in connection with the transfer (except to the extent that the reduction is taken into account with respect to another transfer on behalf of the individual).

Paragraph 8517(4)(*c*) does not apply, however, with respect to a payment made in settlement of rights on the breakdown of a marriage if the payment is transferred to an RPP or an RRSP in accordance with subsection 147.3(5) of the Act. Nor does the paragraph apply with respect to a payment made after 1991 that is transferred to another defined benefit RPP in accordance with subsection 147.3(3) of the Act.

The following example illustrates the combined operation of subsections 8517(1) and (4):

> **Example 40**: Suppose individual X is 53 years of age and has not started to receive a pension. The present value of X's accrued benefits under a non-contributory defined benefit pension plan as of October 1, 1991 is $350,000. X's normalized pension is $30,000 per year. X wishes to transfer as much as possible of the $350,000 amount to an RRSP on that date. What is the prescribed amount under subsection 8517(1), if the amount that cannot be transferred is paid to X?
>
> > (1) As a result of the transfer and the cash payment, X will have forgone $30,000 per year of normalized pension.
> >
> > (2) Consequently, as the present value factor applicable for the transfer is 10.0, the maximum allowable transfer would be $300,000. The remaining $50,000 would be paid to X directly.

Normalized Pension
ITR
8517(5)

Subsection 8517(5) defines the "normalized pension" of an individual under a defined benefit provision of an RPP at a particular time for the purpose of subsection 8517(4). This amount is equal to the annual amount of lifetime retirement benefits that would be payable under the provision at the particular time if:

(*a*) lifetime retirement benefits commenced to be paid to the individual at the particular time;

(*b*) where the individual has not attained age 65 before the particular time, the individual attained age 65 at the particular time;

(*c*) all benefits vested immediately;

(*d*) no early retirement reduction were applied;

(*e*) where the amount of the individual's lifetime retirement benefits depends on the amount of benefits provided under another benefit provision of the plan or under another plan or arrangement, a reasonable estimate were made of such other benefits;

(*f*) where the individual's lifetime retirement benefits would otherwise include benefits that the plan is required to provide by reason of a designated provision of the law of Canada or a province (as defined in section 8513), or that the plan would be required to provide if each such provision were applicable to the plan in respect of all its members, such benefits were not included; and

(*g*) where the amount of the individual's lifetime retirement benefits depends on the level of survivor benefits or other ancillary benefits provided under the provision, or on circumstances (such as marital status) relevant in determining the form of the individual's benefits, the level of the ancillary benefits and the circumstances were such as to maximize the amount of lifetime retirement benefits (except as provided by subsection 8517(6)).

These assumptions are substantially similar to the assumptions used in determining "normalized pension" for pension adjustment purposes, as described in the commentary on subsection 8302(3).

Optional Forms
ITR
8517(6)

Paragraph 8517(5)(*g*) provides that where the amount of a member's lifetime retirement benefits depends on the form in which the member's benefits are payable, the member's normalized pension is to be calculated using the highest level of lifetime retirement benefits that might be payable. Subsection 8517(6) contains two exceptions to this rule.

First, where a member may elect to receive additional lifetime retirement benefits in lieu of all or a part of a guarantee period of ten years or less, the additional benefits are to be excluded in determining the member's normalized pension.

Second, additional lifetime retirement benefits are to be ignored where:

- the additional benefits may be elected in lieu of survivor benefits;
- the election is available only if the life expectancy of the plan member's spouse or former spouse is significantly shorter than normal, and
- the value of the additional benefits does not exceed the value of the survivor benefits being waived (determined as if the spouse were in normal health).

This second exclusion is applicable only where the normalized pension is being calculated as of a date in 1992 or a subsequent year.

The exceptions in subsection 8517(6) are similar to those in subsection 8302(4) for pension adjustment purposes.

Replacement Benefits
ITR
8517(7)

Subsection 8517(7) is primarily an anti-avoidance rule that applies where benefits forgone by an individual under a defined benefit provision of an RPP are replaced with benefits under another defined benefit provision of the plan or of another RPP in conjunction with the transfer of an amount on behalf of the individual to an RRSP or to a money purchase provision of an RPP. Where the same employer participated for the benefit of the individual under both defined benefit provisions, the replaced benefits are to be disregarded in computing, under subsection 8517(4), the amount of the individual's lifetime retirement benefits commuted in connection with the transfer.

Pension Adjustment Limits
ITR
8518

Subsection 147.1(8) of the Act provides that an RPP (other than a multi-employer plan) becomes a revocable plan at the end of a calendar year if the pension adjustments (PAs) of a member are excessive. However, the subsection does not render a plan revocable where the regulations provide for an exception from the normal application of the subsection. Section 8518 sets out an exception for this purpose.

If a member of an RPP also participates in a deferred profit sharing plan (DPSP), the member's PAs will include pension credits in respect of the DPSP. Subsections 8518(1) and (2) together provide that the member's PA for a year in respect of an employer is to be calculated for the purposes of subsection 147.1(8) of the Act without including the DPSP pension credit for the year if

- the individual ceased to be employed in the year by the employer,
- the employer made contributions to the DPSP in the year on behalf of the individual that were based on the individual's earnings for the previous year, and
- the contributions were included in determining the individual's DPSP pension credit for the year.

Section 8518 is intended to accommodate DPSPs under which there is a time lag before an employer makes contributions in respect of services rendered by an employee in a year. In the special circumstances set out above, an individual's DPSP pension credit may be disregarded in determining whether an RPP in which the individual participates has become a revocable plan because of excessive tax-sheltered retirement saving.

Subsection 147(5.11) of the Act also contains a special rule intended to accommodate such DPSPs. This rule applies for the purposes of the DPSP limits in subsection 147(5.1) of the Act.

Association of Benefits with Time Periods

ITR
8519

Many of the provisions in Part LXXXIII (calculation of pension adjustments and other amounts) and Part LXXXV of the Regulations, as well as the condition in subsection 147.1(10) of the Act (past service benefits), refer to the benefits of a member of an RPP in respect of a particular period. Moreover, paragraph 8503(3)(*a*) prohibits (except in a special case) the provision of lifetime retirement benefits under a defined benefit provision of an RPP that are not in respect of particular periods. For these purposes, benefits are considered to be provided in respect of a particular period if the benefits are connected in some way with that period. The most common connection would be the performance of services or the receipt of remuneration in the period.

Section 8519 applies where it is not entirely clear how particular benefits should be associated with time periods and requires that the association be made in a manner acceptable to the Minister of National Revenue.

Minister's Actions

ITR
8520

A number of the provisions in Part LXXXV of the Regulations permit the Minister of National Revenue to waive a requirement, to extend a time limit or to modify in some other way the requirements of the Part. Other provisions provide for the approval of the Minister to be obtained.

Section 8520 provides that a waiver, extension of time or other modification of the requirements or an approval is not effective unless it is in writing and expressly refers to the requirement that is modified or the matter in respect of which the approval is given.

Clause 8

The Regulations are amended by replacing the expression "registered pension fund or plan" by the expression "registered pension plan" everywhere that it appears in the Regulations. This amendment is applicable after 1985.

Clause 9

This sets out the effective dates for clauses 1 to 8.

APPENDIX

ACRONYMS USED IN THE EXPLANATORY NOTES

AVC - Additional Voluntary Contribution
CPI - Consumer Price Index
CPP - Canada Pension Plan
DPSP - Deferred Profit Sharing Plan
OAS - Old Age Security
PA - Pension Adjustment
PBSA - *Pension Benefits Standards Act, 1985*
PSPA - Past Service Pension Adjustment
QPP - Quebec Pension Plan
RCA - Retirement Compensation Arrangement
RPP - Registered Pension Plan
RRIF - Registered Retirement Income Fund
RRSP - Registered Retirement Savings Plan
YMPE - Year's Maximum Pensionable Earnings